



CITY OF FAIR OAKS RANCH
CITY COUNCIL REGULAR MEETING

Thursday, November 21, 2024 at 6:30 PM

Public Safety Training Room, Police Station, 7286 Dietz Elkhorn, Fair Oaks Ranch

Live Stream: <https://www.youtube.com/channel/UCDqRvLvReqxrh1lbajwshKA/live>

AGENDA

OPEN MEETING

1. Roll Call - Declaration of a Quorum
2. Pledge of Allegiance

CITIZENS and GUEST FORUM

To address the Council, please sign the Attendance Roster located on the table at the entrance in the foyer of the Public Safety Training Room. In accordance with the Open Meetings Act, Council may not discuss or take action on any item which has not been posted on the agenda. Speakers shall limit their comments to five (5) minutes each.

3. Citizens to be heard

CONSENT AGENDA

All of the following items are considered to be routine by the City Council, there will be no separate discussion on these items and will be enacted with one motion. Items may be removed by any Council Member by making such request prior to a motion and vote.

4. Approval of the October 17, 2024 Regular City Council meeting minutes

Christina Picioccio, TRMC, City Secretary

5. Approval of a resolution approving the 2024 property tax levy roll for the City of Fair Oaks Ranch, Texas

Summer Fleming, CGFO, Director of Finance

6. Approval of the second reading of an ordinance amending the City Council Meeting Rules of Procedure, identifying procedures and guidelines for the approval of Council Member absences from Council Meetings

Gregory C. Maxton, Mayor

7. Approval of a resolution casting votes for candidates for the Boards of Directors for Bexar and Comal Appraisal Districts for 2025

Gregory C. Maxton, Mayor

8. Approval of a resolution authorizing the execution of a change order with Patti Engineering for electrical improvements at Well # 26

Clayton Hoelscher, Procurement Manager

9. Approval of a resolution authorizing the execution of agreements with Maguire Iron, Inc. for water tank maintenance services, expenditure of the required funds, and execution of all applicable documents by the City Manager

Clayton Hoelscher, Procurement Manager

10. Approval of a resolution authorizing the execution of an agreement with Maguire Iron, Inc. for the Water Plant 5 Ground Storage Tank project

Clayton Hoelscher, Procurement Manager

11. Approval of Council Member Rhoden's absence from the November 21, 2024 Regular City Council meeting

Keith Rhoden, Council Member, Place 2

CONSIDERATION/DISCUSSION ITEMS

12. Consideration and possible action approving a resolution authorizing the execution of an Interlocal Agreement with Bexar County for the Old Fredericksburg Road Water Line Replacement Project

Grant Watanabe, P.E., CFM, Director of Public Works and Engineering Services

13. Consideration and possible action approving the first reading of an ordinance amending the budget for the fiscal year beginning October 1, 2024, and ending September 30, 2025

Summer Fleming, CGFO, Director of Finance

REQUESTS AND ANNOUNCEMENTS

14. Announcements and reports by Mayor and Council Members

15. Announcements by the City Manager

16. Requests by Mayor and Council Members that items be placed on a future City Council agenda

CONVENE INTO EXECUTIVE SESSION

Pursuant to Section 551.101 of the Open Meetings Act, Texas Gov't Code, a quorum of the governing body hereby convenes into closed session:

Sec. 551.071 (Consultation with Attorney) the City Council will meet in private consultation with legal counsel to seek the advice of its attorneys about pending or contemplated litigation, a settlement offer, and/or on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas conflicts with Chapter 551 of the Government Code; to wit:

17. Case No. 22-090-451; Vincent A. Caldarola, MD vs. City of Fair Oaks Ranch, Texas
18. Discussion related to possible terms and conditions necessary to resolve disputes that have been the subject of ongoing litigation with the development commonly known as Boerne Ranch Estates, LLC, aka Fair Oaks Meadows

Sec. 551.072 (Deliberation regarding real property)

19. The City Council will meet in closed session to deliberate the purchase, exchange, lease, or value of real property that may be considered for future location of water and wastewater system improvements

RECONVENE INTO OPEN SESSION

Discussion and possible action on items discussed in Executive Session

ADJOURNMENT

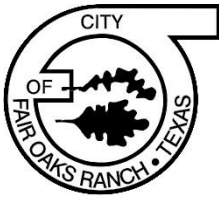
Signature of Agenda Approval: s/Scott M. Huizenga

Scott M. Huizenga, ICMA-CM, City Manager

I, Christina Picioccio, TRMC, City Secretary, certify that the above Notice of Meeting was posted on the outside bulletin board at the Fair Oaks Ranch City Hall, 7286 Dietz Elkhorn, Fair Oaks Ranch, Texas, and on the City's website www.fairoaksranchtx.org, both places being convenient and readily accessible to the general public at all times.

As per Texas Government Code 551.045, said Notice was posted by 6:30 PM, November 18, 2024 and remained so posted continuously for at least 72 hours before said meeting was convened. A quorum of various boards, committees, and commissions may attend the City Council meeting.

The Fair Oaks Ranch Police Station is wheelchair accessible at the front main entrance of the building from the parking lot. Requests for special services must be received forty-eight (48) hours prior to the meeting time by calling the City Secretary's office at (210) 698-0900. Braille is not available. The City Council reserves the right to convene into Executive Session at any time regarding an issue on the agenda for which it is legally permissible; pursuant to Texas Government Code Chapter 551. Section 551.071 (Consultation with Attorney), 551.072 (Deliberations about Real Property), 551.073 (Deliberations about Gifts and Donations), 551.074 (Personnel Matters), 551.076 (Deliberations about Security Devices) and 551.087 (Economic Development).



CITY OF FAIR OAKS RANCH CITY COUNCIL REGULAR MEETING

Thursday, October 17, 2024 at 6:30 PM

Public Safety Training Room, Police Station, 7286 Dietz Elkhorn, Fair Oaks Ranch

Live Stream: <https://www.youtube.com/channel/UCDqRvLvReqxrh1lbajwshKA/live>

MINUTES

OPEN MEETING

1. Roll Call - Declaration of a Quorum

Council Present: Mayor Maxton and Council Members: Stroup, Rhoden, Olvera, Koerner, and Parker

Council Absent: Council Member Muenchow

With a quorum present, the meeting was called to order at 6:30 PM.

2. Pledge of Allegiance - The Pledge of Allegiance was recited in unison.

CITIZENS and GUEST FORUM

3. Citizens to be heard.

Mayor Maxton read a letter from resident, Al Schmidt, voicing his concern over the proposed Water CCN Incorporation for the Corley Tract and urged Council to consider more studies.

PRESENTATIONS

4. Municipal Court Week Proclamation.

Mayor Maxton presented a proclamation to Municipal Court staff in honor of Municipal Court Week.

5. Trinity Glen Rose Groundwater Conservation District (TGRGCD) - District Update.

Joe duMenil, TGRGCD Board President, provided an update regarding the Trinity Glen Rose Groundwater Conservation District.

6. Recognition of the Employee of the Quarter (Q4 - July through September 2024): Alexander Willis, Interim Police Lieutenant.

Joanna Merrill, PSHRA-SCP, Director of Human Resources and Communications, recognized Interim Police Lieutenant, Alexander Willis for being selected as the Employee of the Quarter.

CONSENT AGENDA

7. Approval of the September 19, 2024 Regular City Council meeting minutes.

8. Approval of a resolution authorizing the execution of a Purchase Order with Innovation Network Technologies for a backup appliance.

9. Approval of a resolution authorizing the execution of an agreement with M12 Enterprise Solutions LLC for On-Call Pavement Marking Services.

MOTION: Made by Council Member Parker, seconded by Council Member Stroup, to approve the Consent Agenda.

VOTE: 6 - 0; Motion Passed.

CONSIDERATION/DISCUSSION ITEMS

10. Consideration and possible action approving a resolution to incorporate an 80.69-acre parcel of land at 29580 Ralph Fair Road, a portion of the Corley Tract, into the City of Fair Oaks Ranch Water Certificate of Convenience and Necessity (CCN).

MOTION: Made by Council Member Koerner, seconded by Council Member Parker, to approve a resolution to incorporate an 80.69-acre parcel of land at 29580 Ralph Fair Road, into the City of Fair Oaks Ranch Water Certificate of Convenience and Necessity (CCN), subject to approval of the proposed Master Development Plan.

VOTE: 6 - 0; Motion Passed.

11. Consideration and possible action approving a resolution to incorporate an 80.69-acre parcel of land at 29580 Ralph Fair Road, a portion of the Corley Tract, into the City of Fair Oaks Ranch Wastewater Certificate of Convenience and Necessity (CCN).

MOTION: Made by Council Member Koerner, seconded by Mayor Maxton, to approve a resolution to incorporate an 80.69-acre parcel of land at 29580 Ralph Fair Road, into the City of Fair Oaks Ranch Wastewater Certificate of Convenience and Necessity (CCN), subject to approval of the proposed Master Development Plan.

VOTE: 6 - 0; Motion Passed.

WORKSHOP

12. Review of proposed City of Fair Oaks Ranch Unified Development Code amendment categories.

Lee Muñiz, P.E., CFM, Manager of Engineering Services, led a workshop on proposed UDC category amendments. City Council provided the following direction: No amendments to setbacks and not to include non-commercial stables in conditional uses. Amendments to advance to the Planning and Zoning Commission for review and recommendation include: ensure consistency in screening throughout the UDC; review Cul-de-Sac street frontages; review processes and criteria for plat waivers and variances; review blended average lot sizes in conservation development alternatives; review the tree preservation requirement related to residential properties; review the additional tree preservation requirements related to increased circumference and mitigation; remove all references to "Hill Country Design Aesthetics;" ensure sign regulations comply with state law, signs do not create traffic hazards, impairment of motorists, sight of vision and distraction, etc., and consider a variance process; and review Table 4.2 to recommend non-listed uses that are relative to the City, review and possibly reduce large grouping of uses, and identify off-street parking requirements, and provide criteria for park maintenance facilities in conditional uses.

REQUESTS AND ANNOUNCEMENTS

13. Announcements and reports by Mayor and Council Members.

Mayor Maxton reminded everyone that Election Day is November 5, 2024. He informed all that Early Voting begins Monday, October 21, 2024, and that residents will need to vote in their county of residence. Bexar County residents will be able to vote at the City’s Police Station. He urged residents to visit the City’s website for specific details in each County. Mayor Maxton also invited residents to attend the Police Department’s family friendly Trunk or Treat event on Saturday, October 26, 2024 from 6:00 – 8:00 PM in the parking lot of Fair Oaks Ranch elementary.

14. Announcements by the City Manager.

N/A

15. Requests by Mayor and Council Members that items be placed on a future City Council agenda.

N/A

CONVENE INTO EXECUTIVE SESSION

City Council convened into closed session at 8:56 PM regarding:

Sec. 551.071 (Consultation with Attorney) the City Council will meet in private consultation with legal counsel to seek the advice of its attorneys about pending or contemplated litigation, a settlement offer, and/or on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas conflicts with Chapter 551 of the Government Code; to wit:

- 17. Discussion related to possible terms and conditions necessary to resolve disputes that have been the subject of ongoing litigation with the development commonly known as Boerne Ranch Estates, LLC, aka Fair Oaks Meadows.

Sec. 551.074 (Personnel Matters)

- 19. To perform the annual evaluation of the City Manager.

City Council did not convene into Executive Session regarding:

Sec. 551.071 (Consultation with Attorney) the City Council will meet in private consultation with legal counsel to seek the advice of its attorneys about pending or contemplated litigation, a settlement offer, and/or on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas conflicts with Chapter 551 of the Government Code; to wit:

- 16. Case No. 22-090-451; Vincent A. Caldarola, MD vs. City of Fair Oaks Ranch, Texas.

Sec. 551.072 (Deliberation regarding real property)

18. The City Council will meet in closed session to deliberate the purchase, exchange, lease, or value of real property that may be considered for future location of water and wastewater system improvements.

RECONVENE INTO OPEN SESSION

MOTION: Made by Mayor Maxton , seconded by Council Member Rhoden, to change the annual base salary of the City Manager to \$193,000.

VOTE: 6 - 0; Motion Passed.

ADJOURNMENT

Mayor Maxton adjourned the meeting at 10:31 PM.

ATTEST:

Gregory C. Maxton, Mayor

Christina Picioccio, TRMC, City Secretary



CITY COUNCIL CONSENT ITEM
CITY OF FAIR OAKS RANCH, TEXAS

AGENDA TOPIC: Approval of a resolution approving the 2024 property tax levy roll for the City of Fair Oaks Ranch, Texas
DATE: November 21, 2024
DEPARTMENT: Finance
PRESENTED BY: Consent Item: Summer Fleming, CGFO, Director of Finance

INTRODUCTION/BACKGROUND:

Pursuant to the Texas Property Tax Code, Chapter 26.09(e), after City Council sets the 2024 property tax rate, the levy roll is determined, by the property tax collector, based on said approved property tax rate, and presented to Council for approval: The assessor shall enter the amount of tax determined as provided by this section in the appraisal roll and submit it to the governing body of the unit for approval. The appraisal rolls with amounts of tax entered as approved by the governing body constitutes the unit's tax roll.

City Council, on September 19, set the 2024 property tax rate at \$0.2853 on each \$100 taxable valuation of property. See Exhibit A for the 2024 Levy Total report for calculation of Total Levy.

POLICY ANALYSIS/BENEFIT(S) TO CITIZENS:

Compliance with State law.

LONGTERM FINANCIAL & BUDGETARY IMPACT:

Table with 2 columns: Levy Type and Budgeted Revenue. Rows include M&O Levy, I&S Levy, and Total Levy.

Budgeted revenue was based on certified estimates of taxable value and is less than the levy by \$15,850.48. Due to historical adjustments of property value under protest after the date of certification, we do not anticipate a budget amendment is needed at this time. If adjustments to the levy increase significantly during the year, an amendment to appropriate excess funds may be considered.

LEGAL ANALYSIS:

Approved as to form.

RECOMMENDATION/PROPOSED MOTION:

Consent Item - I move to approve a resolution approving the City of Fair Oaks Ranch 2024 property tax levy roll of \$7,463,074.48.

A RESOLUTION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FAIR OAKS RANCH, TEXAS APPROVING THE 2024 PROPERTY TAX LEVY ROLL FOR THE CITY OF FAIR OAKS RANCH, TEXAS; ESTABLISHING AN EFFECTIVE DATE

WHEREAS, after the adoption of the tax rate for the current year, the assessor for the City of Fair Oaks Ranch (“City”) must calculate the tax imposed on each property included on the appraisal roll for the City; and

WHEREAS, the assessor for the City must enter the amount of tax determined in accordance with Texas Tax Code Section 26.09 in the appraisal roll and submit it to the City Council for approval, and

WHEREAS, the appraisal roll with amounts of tax entered as approved by the City Council constitutes the City’s tax roll.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAIR OAKS RANCH, TEXAS:

Section 1. The City Council of the City of Fair Oaks Ranch hereby officially approves the 2024 property tax levy roll as required by the Property Tax Code, Vernon’s Texas Codes Annotated, Section 26.09(e) in the amount of \$7,463,074.48 based on a tax rate of \$0.2853 per \$100 valuation of a total taxable value of \$2,616,128,161.

Section 2. That the recitals contained in the preamble hereto are hereby found to be true and such recitals are hereby made a part of this resolution for all purposes and are adopted as a part of the judgment and findings of the City Council.

Section 3. If any provision of this resolution or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this resolution and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City Council hereby declares that this resolution would have been enacted without such invalid provision.

Section 4. That it is officially found, determined, and declared that the meeting at which this resolution is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this resolution, was given, all as required by Chapter 551, as amended, Texas Government Code.

Section 5. All resolutions or parts thereof, which are in conflict or inconsistent with any provision of this resolution are hereby repealed to the extent of such conflict, and the provision of this resolution shall be and remain controlling as to the matters resolved herein.

Section 6. This resolution shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

Section 7. This resolution shall be in force and effect from and after its final passage, and it is so resolved.

PASSED, APPROVED, and ADOPTED on this 21st day of November 2024.

Gregory C. Maxton, Mayor

ATTEST:

APPROVED AS TO FORM:

Christina Picioccio, TRMC
City Secretary

Denton Navarro Rodriguez Bernal Santee & Zech
P.C., City Attorney



Albert Uresti, MPA, PCAC
Office of the Tax Assessor - Collector

October 24, 2024

Ms. Summer Fleming, Accounting Manager
City of Fair Oaks Ranch
7286 Dietz Elkhorn Road
Fair Oaks Ranch, Texas 78015

RE: City of Fair Oaks Ranch – 2024 Tax Roll

Dear Ms. Fleming:

Enclosed is a summary of values and levies taken from the initial Tax Roll for the City of Fair Oaks Ranch.

Section 26.09(e) of the State Property Tax Code requires the Tax Roll to be approved by the taxing unit's governing body. Please notify this office in writing, at your earliest convenience, when the tax roll is approved by your governing body.

If you have any questions, please contact Mr. Carlos Gutierrez at 210-335-6600.

Sincerely,

Albert Uresti, MPA, PCAC
Tax Assessor-Collector
Bexar County

AU:JAA/sb

Enclosure

2024 CERTIFIED TAX ROLL AS OF OCTOBER 1, 2024

TAX ASSESSMENT ROLLS OF FAIR OAKS RANCH FOR THE YEAR 2024 SHOW THE FOLLOWING SUMMARIES:

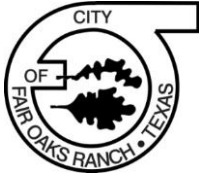
ROLL	NUMBER ACCTS	MARKET VALUE	TAXABLE VALUE	FREEZE LOSS	TOTAL LEVY
REAL PROPERTY	4,750	3,147,366,460	2,605,527,179	1,685.90	7,432,186.23
PERSONAL PROPERTY	181	15,258,848	10,600,982	.00	30,888.25
MOBILE HOME PROPERTY	0	0	0	.00	.00
MINERAL PROPERTY	0	0	0	.00	.00
OTHER PROPERTY	0	0	0	.00	.00
TOTAL	4,931	3,162,625,308	2,616,128,161	1,685.90	7,463,074.48

RATE OF TAXATION ASSESSMENT RATIO 100%
TOTAL TAX RATE 00.285300

ALBERT URESTI, MPA, PCAC
TAX ASSESSOR-COLLECTOR BEXAR COUNTY

BY :





CITY COUNCIL CONSENT ITEM

CITY OF FAIR OAKS RANCH, TEXAS

AGENDA TOPIC: Approval of the second reading of an ordinance amending the City Council Meeting Rules of Procedure, identifying procedures and guidelines for the approval of Council Member absences from Council Meetings

DATE: November 21, 2024

DEPARTMENT: City Council

PRESENTED BY: Consent Item: Gregory C. Maxton, Mayor

INTRODUCTION/BACKGROUND:

The City of Fair Oaks Ranch Home Rule Charter states that the Mayor or a Council Member shall forfeit their office if they fail to regularly attend City Council meetings without an approved absence. The Charter further states that an approved absence is obtained by a majority vote of City Council either before or after the absence.

The Home Rule Charter and the current City Council Meeting Rules of Procedure do not provide any further clarification for obtaining the approved absence or guidelines for Council Members to approve absences.

This amendment to the Rules of Procedure will provide Council Members with a more formalized process for requesting absence approvals and also provide parameters on what absences should be approved.

The first reading of this ordinance was approved at the November 7, 2024 Regular City Council meeting.

POLICY ANALYSIS/BENEFIT(S) TO CITIZENS:

City Council is entrusted with the responsibility of making important decisions that impact the community, and regular attendance at City Council meetings is essential for the effective governance of the city.

LONGTERM FINANCIAL & BUDGETARY IMPACT:

N/A

LEGAL ANALYSIS:

Approved as to form

RECOMMENDATION/PROPOSED MOTION:

Consent Item - I move to approve the second reading of an ordinance to amend the City Council Rules of Procedure.

AN ORDINANCE

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAIR OAKS RANCH, TEXAS, AMENDING THE CITY’S CODE OF ORDINANCES, CHAPTER 1 “GENERAL PROVISIONS,” APPENDIX “CITY COUNCIL MEETING RULES OF PROCEDURE” WITH THE ADDITION OF RULE 35: COUNCIL MEMBER ABSENCE FROM COUNCIL MEETINGS; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City of Fair Oaks Ranch Home Rule Charter in Section 3.09 states that a Council Member or the Mayor shall forfeit his/her office if he/she fails to regularly attend City Council meetings without an approved absence obtained by a majority vote of City Council either before or after the absence. There shall be a presumption of failure to regularly attend when three (3) regular meetings are missed during a term year without obtaining an approved absence from City Council; and,

WHEREAS, the current City Council Rules of Procedure does not provide any process for obtaining an approved absence or guidelines for Council Members to approve absences; and,

WHEREAS, the City Council is entrusted with the responsibility of making important decisions that impact the community, and regular attendance at City Council meetings is essential for the effective governance of the city; and,

WHEREAS, it is in the best interest of the City and its residents to establish clear procedures for requesting and approving absences, thereby promoting accountability, transparency, and the fulfillment of Council members' duties; and,

WHEREAS, the implementation of a formalized process for requesting absences will help ensure that City Council meetings proceed smoothly, with the full participation of its members, thereby maintaining the integrity and functionality of the City’s governing body; and,

WHEREAS, the City Council recognizes the importance of balancing public service with personal and professional obligations, and therefore seeks to provide a fair and reasonable process for addressing absences due to legitimate reasons.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAIR OAKS RANCH, TEXAS:

Section 1. The Code of Ordinances, Chapter 1, “General Provisions,” Appendix “City Council Meeting Rules of Procedure” is hereby amended as set forth in the attached **Exhibit A**.

Section 2. That the recitals contained in the preamble hereto are hereby found to be true and such recitals are hereby made a part of this ordinance for all purposes and are adopted as a part of the judgment and findings of the Council.

Section 3. It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this ordinance be severable, and, if any phrase, clause, sentence, paragraph, or section of this ordinance shall be declared invalid by judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of this ordinance and the remainder of this ordinance shall be enforced as written.

Section 4. That it is officially found, determined, and declared that the meeting at which this ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this ordinance, was given, all as required by Chapter 551, as amended, Texas Government Code.

Section 5. The provisions of this ordinance shall be cumulative of all ordinances not repealed by this ordinance and ordinances governing or regulating the same subject matter as that covered herein.

Section 6. If any provision of this ordinance or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this ordinance and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City hereby declares that this ordinance would have been enacted without such invalid provision.

Section 7. All ordinances, or parts thereof, which are in conflict or inconsistent with any provision of this ordinance are hereby repealed to the extent of such conflict, and the provisions of this ordinance shall be and remain controlling as to the matters ordained herein.

Section 8. This ordinance shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

Section 9. This ordinance shall take effect immediately from and after its second reading, passage and any publication requirements as may be required by governing law.

PASSED and APPROVED on first reading by the City Council of the City of Fair Oaks Ranch, Texas, on this 7th day of November 2024.

PASSED, APPROVED, and ADOPTED on second and final reading by the City Council of the City of Fair Oaks Ranch, Texas, on reading this 21st day of November 2024.

Gregory C. Maxton, Mayor

ATTEST:

APPROVED AS TO FORM:

Christina Picioccio, TRMC
City Secretary

Denton Navarro Rodriguez Bernal Santee & Zech
P.C., City Attorney

EXHIBIT A

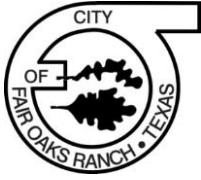
The Code of Ordinances, Chapter 1, General Provisions,” Appendix “City Council Meeting Rules of Procedure” is hereby amended as follows:

[Deletions shown as strikethrough and additions shown as underscore]

Rule 35: Council Member Absence from Council Meetings

In accordance with Section 3.09 of the City’s Home Rule Charter, Council Members or the Mayor shall forfeit his/her office if he/she fails to regularly attend City Council meetings without an approved absence obtained by a majority vote of City Council either before or after the absence. There shall be a presumption of failure to regularly attend when three (3) regular meetings are missed during a term year without obtaining an approved absence from City Council.

1. It is a Council Member’s responsibility to seek an approved absence from missing a meeting.
2. It will be the Council Member’s responsibility for requesting the agenda item and preparing the documentation. Once the documentation is submitted to the City Secretary’s office, the item will be added to the agenda for consideration at the next possible meeting.
3. In general, approved absences may include, but are not limited to, illness, death in the family, scheduled family vacations or emergencies.
4. Council Members will submit documentation requesting the approved absence to the City Secretary within 60 days of the absence. After 60 days, the absence is considered unapproved without the possibility to seek approval.



**CITY COUNCIL CONSENT ITEM
CITY OF FAIR OAKS RANCH, TEXAS**

AGENDA TOPIC: Approval of a resolution casting votes for candidates for the Boards of Directors for Bexar and Comal Appraisal Districts for 2025
DATE: November 21, 2024
DEPARTMENT: City Council
PRESENTED BY: Consent: Gregory C. Maxton, Mayor

INTRODUCTION/BACKGROUND:

The Texas Property Tax Code states the governing body of each taxing unit entitled to vote shall determine its vote for the appraisal district board of directors by resolution and submit no later than December 15, 2024.

Per Section 6.03 of the Texas Property Tax Code, voting entitlement is determined by dividing the total dollar amount of property taxes imposed in the district by the taxing unit for the preceding tax year by the sum of the total dollar amount of property taxes imposed in the district for that year by each taxing unit that is entitled to vote, by multiplying the quotient by 1,000 and by rounding the product to the nearest whole number.

The City has the following votes to cast: 1) Bexar - 6 votes and
2) Comal - 11 votes.

Today’s agenda item is for City Council to cast its ballots for the Boards of Directors for the Comal and the Bexar Appraisal Districts. Mayor Maxton vetted the candidates and makes the following voting proposal:

Bexar Appraisal District:

- The City of Fair Oaks Ranch has six votes, which is 0.12% of the total vote.
- There are 7 candidates to fill five positions on the Appraisal District Board. Four of the candidates are incumbents and most likely will be re-elected.
- Of the remaining three new candidates, Tammy Glascoe appears to serve the same interests as the City of Fair Oaks Ranch. Tammy Glascoe was nominated by the City of Schertz.
- Cast all 6 votes for Tammy Glascoe.

Comal Appraisal District:

- The City of Fair Oaks Ranch has 11 votes.
- There are five candidates to fill five positions on the Appraisal District Board. All five of the candidates are incumbents and should be re-elected back to the board.

- Cast 3 votes each to Douglas Miller Jr. and James Long who were nominated by Comal County. Cast 3 votes to Eric Couch who was nominated by the City of New Braunfels and Comal County. Cast 2 votes to Robert Slupik who was nominated by Comal County. These candidates represent the same interest that are important to the residents of our City.

POLICY ANALYSIS/BENEFIT(S) TO CITIZENS:

Compliance with the Texas Tax Code

LONG-TERM FINANCIAL & BUDGETARY IMPACT:

None

LEGAL ANALYSIS:

Approved as to form.

RECOMMENDATION/PROPOSED MOTION:

Consent Item - I move to approve a resolution casting the City of Fair Oaks Ranch votes for the Bexar and Comal Appraisal District Board of Directors as follows:

Bexar Appraisal District

Tammy Glascoe (6 votes)

Comal Appraisal District

Eric Couch (3 votes)

James Long (3 votes)

Douglas Miller Jr. (3 votes)

Bob Slupik (2 votes)

A RESOLUTION

A RESOLUTION OF THE COUNCIL OF FAIR OAKS RANCH, TEXAS CASTING VOTES FOR CANDIDATES FOR THE BOARDS OF DIRECTORS FOR BEXAR AND COMAL APPRAISAL DISTRICTS FOR 2025

WHEREAS, the City of Fair Oaks Ranch is required under Section 6.03(k) of the Texas Property Tax Code to cast votes by written resolution for the candidate(s) for the Boards of Directors for the Bexar and Comal Appraisal Districts; and

WHEREAS, the City of Fair Oaks Ranch is required to submit its results of the vote to the Chief Appraiser of the Bexar and Comal Appraisal Districts by December 15, 2024, and

WHEREAS, the City Council of the City of Fair Oaks Ranch deems it appropriate to cast their ballots for the Board of Directors of the Bexar and the Comal Appraisal Districts.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAIR OAKS RANCH, TEXAS:

Section 1. The City Council of the City of Fair Oaks Ranch hereby cast votes for candidates for the election of the Board of Directors as follows:

- I. 6 votes cast for Tammy Glascoe to serve on the Board of Directors for the Bexar Appraisal District
- II. 3 votes each cast for Eric Couch, James Long, Douglas Miller Jr. and 2 votes for Bob Slupik to serve on the Board of Directors for the Comal Appraisal District.

Section 2. A signed copy of this resolution along with the appropriate ballot, before December 15, 2024, shall be submitted by the City Secretary to the Chief Appraiser of Bexar and Comal Appraisal Districts.

Section 3. That the recitals contained in the preamble hereto are hereby found to be true and such recitals are hereby made a part of this resolution for all purposes and are adopted as a part of the judgment and findings of the City Council.

Section 4. If any provision of this resolution or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this resolution and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City Council hereby declares that this resolution would have been enacted without such invalid provision.

Section 5. That it is officially found, determined, and declared that the meeting at which this resolution is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this resolution, was given, all as required by Chapter 551, as amended, Texas Government Code.

Section 6. All resolutions or parts thereof, which are in conflict or inconsistent with any provision of this resolution are hereby repealed to the extent of such conflict, and the

provision of this resolution shall be and remain controlling as to the matters resolved herein.

Section 7. This resolution shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

Section 8. This resolution shall be in force and effect from and after its final passage, and it is so resolved.

PASSED, APPROVED, and ADOPTED on this 21st day of November 2024.

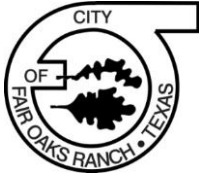
Gregory C. Maxton, Mayor

ATTEST:

APPROVED AS TO FORM:

Christina Picioccio, TRMC
City Secretary

Denton Navarro Rodriguez Bernal Santee & Zech
P.C., City Attorney



CITY COUNCIL CONSENT ITEM CITY OF FAIR OAKS RANCH, TEXAS

AGENDA TOPIC: Approval of a resolution authorizing the execution of a change order with Patti Engineering for electrical improvements at Well # 26

DATE: November 21, 2024

DEPARTMENT: Finance

PRESENTED BY: Consent Item: Clayton Hoelscher, Procurement Manager

INTRODUCTION/BACKGROUND:

On July 18, 2024, the City Council approved a construction agreement with Patti Engineering, Inc. for water well electrical improvements for an amount of \$240,000. This agreement included improvements at Wells 25, 27, 28 and 31. The agreement replaces the existing rotophase converters with variable frequency drives (VFD's) to supply three-phase power and enable soft starts which bring the motors up to speed gradually and reduces wear and tear on the pumps.

The City budgeted \$60,000 in the FY 2024-25 Budget to add one additional location to the existing agreement. To support this, the City is executing a change order to add the Well 26 location to the existing agreement.

POLICY ANALYSIS/BENEFIT(S) TO CITIZENS:

- Supports Priority 3.1 of the Strategic Action Plan to Enhance and Ensure Continuity of Reliable Water Resources.
- Complies with Competitive Procurement Requirements.

LONGTERM FINANCIAL & BUDGETARY IMPACT:

The City budgeted \$60,000 for this project. This change order is for \$60,000.

LEGAL ANALYSIS:

The Contractor previously executed the City's Standard Construction Agreement. A copy is attached for reference. This Change Order only adds one additional location for \$60,000. No other changes to the agreement are being made.

RECOMMENDATION/PROPOSED MOTION:

Consent Item - I move to approve a resolution authorizing the execution of a change order with Patti Engineering, Inc. for a total value not to exceed \$60,000, expenditure of the required funds, and execution of all applicable documents by the City Manager.

A RESOLUTION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FAIR OAKS RANCH, TEXAS AUTHORIZING THE EXECUTION OF A CHANGE ORDER WITH PATTI ENGINEERING FOR ELECTRICAL IMPROVEMENTS AT ONE ADDITIONAL WATER WELL LOCATION, EXPENDITURE OF THE REQUIRED FUNDS, AND EXECUTION OF ALL APPLICABLE DOCUMENTS BY THE CITY MANAGER

WHEREAS, the City of Fair Oaks Ranch (the “City”) included funds in FY 2024-25 for electrical improvements at Well 26; and

WHEREAS, the City previously solicited proposals and awarded an agreement to Patti Engineering for electrical improvements at Water Wells 25, 27, 28 and 31 in accordance with Texas Local Government Code Chapter 252 for an amount of \$240,000.00; and

WHEREAS, the total cost for this Change Order to add Well 26 to the agreement is \$60,000.00; and

WHEREAS, the City Council of the City of Fair Oaks Ranch supports the project and authorizes the execution of a Change Order to the existing agreement with Patti Engineering (**Exhibit A**).

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAIR OAKS RANCH, TEXAS:

Section 1 The City Council hereby authorizes the City Manager to execute an agreement with Patti Engineering for a Change Order to **add** the Well # 26 location, to expend required funds up to \$60,000.00 and to execute any and all applicable documents to effectuate this resolution.

Section 2. That the recitals contained in the preamble hereto are hereby found to be true and such recitals are hereby made a part of this resolution for all purposes and are adopted as a part of the judgment and findings of the Council.

Section3. If any provision of this resolution or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this resolution and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City Council hereby declares that this resolution would have been enacted without such invalid provision.

Section 4. That it is officially found, determined, and declared that the meeting at which this resolution is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this resolution, was given, all as required by Chapter 551, as amended, Texas Government Code.

Section 5. All resolutions or parts thereof, which are in conflict or inconsistent with any provision of this resolution are hereby repealed to the extent of such conflict, and the provision of this resolution shall be and remain controlling as to the matters resolved herein.

- Section 6.** This resolution shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.
- Section 7.** This resolution shall be in force and effect from and after its final passage, and it is so resolved.

PASSED, APPROVED, and ADOPTED on this 21st day of November 2024.

Gregory C. Maxton, Mayor

ATTEST:

APPROVED AS TO FORM:

Christina Picioccio, TRMC
City Secretary

Denton Navarro Rodriguez Bernal Santee & Zech
P.C., City Attorney

CITY OF FAIR OAKS RANCH
CONSTRUCTION AGREEMENT

THE STATE OF TEXAS §
 §
KENDALL COUNTY §

This Construction Agreement ("Agreement") is made and entered by and between the City of Fair Oaks Ranch, Texas, (the "City") a Texas municipality, and Patti Engineering, Inc. ("Contractor").

Section 1. Duration. This Agreement shall become effective upon the date of the final signature affixed hereto and shall remain in effect until satisfactory completion of the Scope of Work unless terminated as provided for in this Agreement.

Section 2. Scope of Work.

(A) Contractor shall perform the Work as more particularly described in the Scope of Work attached hereto as Exhibit "A". The work as described in the Scope of Work constitutes the "Project".

(B) The Quality of Work provided under this Agreement shall be of the level of quality performed by Contractors regularly rendering this type of service.

(C) The Contractor shall perform its Work for the Project in compliance with all statutory, regulatory and contractual requirements now or hereafter in effect as may be applicable to the rights and obligations set forth in the Agreement.

(D) The Contractor may rely upon the accuracy of reports and surveys provided to it by the City except when defects should have been apparent to a reasonably competent Contractor or when it has actual notice of any defects in the reports and surveys.

Section 3. Compensation.

(A) The Contractor shall be paid in the manner set forth in Exhibit "A" and as provided herein.

(B) *Billing Period:* The Contractor may submit monthly, or less frequently, an invoice for payment based on the estimated completion of the described tasks and approved work schedule. Subject to Chapter 2251, Texas Government Code (the "Prompt Payment Act"), payment is due within thirty (30) days of the City's receipt of the Contractor's invoice. Interest on overdue payments shall be calculated in accordance with the Prompt Payment Act.

(C) *Reimbursable Expenses:* Any and all reimbursable expenses related to the Project shall be included in the scope of Work (Exhibit A) and accounted for in the total contract amount.

Section 4. Time of Completion.

The prompt completion of the Work under the Scope of Work relates is critical to the City. Unnecessary delays in providing Work under a Scope of Work shall be grounds for dismissal of the Contractor and termination of this Agreement without any or further liability to the City other than a prorated payment for necessary, timely, and conforming work done by Contractor prior to the time of termination. The Project shall be completed for inspection and acceptance by the City on or before twenty four weeks after contract execution.

Section 5. Insurance.

Before commencing work under this Agreement, Contractor shall obtain and maintain the liability insurance provided for below throughout the term of the Project plus an additional two years. Contractor shall provide evidence of such insurance to the City. Such documentation shall meet the requirements noted in Exhibit B.

Contractor shall maintain the following limits and types of insurance:

Workers Compensation Insurance: Contractor shall carry and maintain during the term of this Agreement, workers compensation and employers' liability insurance meeting the requirements of the State of Texas on all the Contractor's employees carrying out the work involved in this contract.

General Liability Insurance: Contractor shall carry and maintain during the term of this Agreement, general liability insurance on a per occurrence basis with limits of liability not less than \$1,000,000 for each occurrence and for fire damage. For Bodily Injury and Property Damage, coverage shall be no less than \$1,000,000. As a minimum, coverage for Premises, Operations, Products and Completed Operations shall be \$2,000,000. This coverage shall protect the public or any person from injury or property damages sustained by reason of the Contractor or its employees carrying out the work involved in this Agreement. The general aggregate shall be no less than \$2,000,000.

Automobile Liability Insurance: Contractor shall carry and maintain during the term of this Agreement, automobile liability insurance with either a combined limit of at least \$1,000,000 per occurrence for bodily injury and property damage or split limits of at least \$1,000,000 for bodily injury per person per occurrence and \$1,000,000 for property damage per occurrence. Coverage shall include all owned, hired, and non-owned motor vehicles used in the performance of this contract by the Contractor or its employees.

Subcontractor: In the case of any work sublet, the Contractor shall require subcontractor and independent contractors working under the direction of either the Contractor or a

subcontractor to carry and maintain the same workers compensation and liability insurance required of the Contractor.

Qualifying Insurance: The insurance required by this Agreement shall be written by non-assessable insurance company licensed to do business in the State of Texas and currently rated "B+" or better by the A.M. Best Companies. All policies shall be written on a "per occurrence basis" and not a "claims made" form.

Evidence of such insurance shall be attached as Exhibit "C".

Section 6. Miscellaneous Provisions.

(A) *Subletting.* The Contractor shall not sublet or transfer any portion of the work under this Agreement, or any Scope of Work issued pursuant to this Agreement unless specifically approved in writing by the City, which approval shall not be unreasonably withheld. Subcontractors shall comply with all provisions of this Agreement and the applicable Scope of Work. The approval or acquiescence of the City in the subletting of any work shall not relieve the Contractor of any responsibility for work done by such subcontractor.

(B) *Compliance with Laws.* The Contractor shall comply with all federal, state and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts, administrative, or regulatory bodies in any matter affecting the performance of this Agreement, including, without limitation, worker's compensation laws, minimum and maximum salary and wage statutes and regulations, and licensing laws and regulations. When required, the Contractor shall furnish the City with satisfactory proof of compliance.

(C) *Independent Contractor.* Contractor acknowledges that Contractor is an independent contractor of the City and is not an employee, agent, official or representative of the City. Contractor shall not represent, either expressly or through implication, that Contractor is an employee, agent, official or representative of the City. Income taxes, self-employment taxes, social security taxes and the like are the sole responsibility of the Contractor.

(D) *Non-Collusion.* Contractor represents and warrants that Contractor has not given, made, promised or paid, nor offered to give, make, promise or pay any gift, bonus, commission, money or other consideration to any person as an inducement to or in order to obtain the work to be provided to the City under this Agreement. Contractor further agrees that Contractor shall not accept any gift, bonus, commission, money, or other consideration from any person (other than from the City pursuant to this Agreement) for any of the Work performed by Contractor under or related to this Agreement. If any such gift, bonus, commission, money, or other consideration is received by or offered to Contractor, Contractor shall immediately report that fact to the City and, at the sole option of the City, the City may elect to accept the consideration for itself or to take the value of such consideration as a credit against the compensation otherwise owing to Contractor under or pursuant to this Agreement.

(E) *Force Majeure*. If the performance of any covenant or obligation to be performed hereunder by any party is delayed as a result of circumstances which are beyond the reasonable control of such party (which circumstances may include, without limitation, pending litigation, acts of God, war, acts of civil disobedience, fire or other casualty, shortage of materials, adverse weather conditions [such as, by way of illustration and not of limitation, severe rain storms or below freezing temperatures, or tornados] labor action, strikes or similar acts, moratoriums or regulations or actions by governmental authorities), the time for such performance shall be extended by the amount of time of such delay, but no longer than the amount of time reasonably occasioned by the delay. The party claiming delay of performance as a result of any of the foregoing force majeure events shall deliver written notice of the commencement of any such delay resulting from such force majeure event not later than seven (7) days after the claiming party becomes aware of the same, and if the claiming party fails to so notify the other party of the occurrence of a force majeure event causing such delay and the other party shall not otherwise be aware of such force majeure event, the claiming party shall not be entitled to avail itself of the provisions for the extension of performance contained in this subsection.

(F) In the case of any conflicts between the terms of this Agreement and wording contained within the Scope of Work, this Agreement shall govern. The Scope of Work is intended to detail the technical scope of Work, fee schedule, and contract time only and shall not dictate Agreement terms.

Section 7. Termination.

(A) This Agreement may be terminated:

(1) By the mutual agreement and consent of both Contractor and City;

(2) By either party, upon the failure of the other party to fulfill its obligations as set forth in either this Agreement or a Scope of Work issued under this Agreement;

(3) By the City, immediately upon notice in writing to the Contractor, as consequence of the failure of Contractor to perform the Work contemplated by this Agreement in a timely or satisfactory manner;

(4) By the City, at will and without cause upon not less than thirty (30) days written notice to the Contractor.

(B) If the City terminates this Agreement pursuant to subsection 7(A)(2) or (3), above, the Contractor shall not be entitled to any fees or reimbursable expenses other than the fees and reimbursable expenses then due and payable as of the time of termination and only then for those Work that have been timely and adequately performed by the Contractor considering the actual costs incurred by the Contractor in performing work to date of termination, the value of the work that is nonetheless usable to the City, the cost to the City of employing another Contractor to complete the work required and the time required to do so, and other factors that affect the value to the City of the work performed

at time of termination. In the event of termination not the fault of the Contractor, the Contractor shall be compensated for all basic, special, and additional Work actually performed prior to termination, together with any reimbursable expenses then due.

Section 8. Indemnification. Contractor agrees to indemnify and hold the City of Fair Oaks Ranch, Texas and all of its present, future and former agents, employees, officials and representatives harmless in their official, individual and representative capacities from any and all claims, demands, causes of action, judgments, liens and expenses (including attorney's fees, whether contractual or statutory), costs and damages (whether common law or statutory), costs and damages (whether common law or statutory, and whether actual, punitive, consequential or incidental), of any conceivable character, for injuries to persons (including death) or to property (both real and personal) created by, arising from or in any manner relating to the Work or goods performed or provided by Contractor – expressly including those arising through strict liability or under the constitutions of the United States.

Section 9. Notices. Any notice required or desired to be given from one party to the other party to this Agreement shall be in writing and shall be given and shall be deemed to have been served and received (whether actually received or not) if (i) delivered in person to the address set forth below; (ii) deposited in an official depository under the regular care and custody of the United States Postal Service located within the confines of the United States of America and sent by certified mail, return receipt requested, and addressed to such party at the address hereinafter specified; or (iii) delivered to such party by courier receipted delivery. Either party may designate another address within the confines of the continental United States of America for notice, but until written notice of such change is actually received by the other party, the last address of such party designated for notice shall remain such party's address for notice.

Section 10. No Assignment. Neither party shall have the right to assign that party's interest in this Agreement without the prior written consent of the other party.

Section 11. Severability. If any term or provision of this Agreement is held to be illegal, invalid or unenforceable, the legality, validity or enforceability of the remaining terms or provisions of this Agreement shall not be affected thereby, and in lieu of each such illegal, invalid or unenforceable term or provision, there shall be added automatically to this Agreement a legal, valid or enforceable term or provision as similar as possible to the term or provision declared illegal, invalid or unenforceable.

Section 12. Waiver. Either City or the Contractor shall have the right to waive any requirement contained in this Agreement that is intended for the waiving party's benefit, but, except as otherwise provided herein, such waiver shall be effective only if in writing executed by the party for whose benefit such requirement is intended. No waiver of any breach or violation of any term of this Agreement shall be deemed or construed to constitute a waiver of any other breach or violation, whether concurrent or subsequent, and whether of the same or of a different type of breach or violation.

Section 13. Governing Law; Venue. This Agreement and all of the transactions contemplated herein shall be governed by and construed in accordance with the laws of the State of Texas. The provisions and obligations of this Agreement are performable in Kendall County, Texas such that exclusive venue for any action arising out of this Agreement shall be in Kendall County, Texas.

Section 14. Paragraph Headings; Construction. The paragraph headings contained in this Agreement are for convenience only and shall in no way enlarge or limit the scope or meaning of the various and several paragraphs hereof. Both parties have participated in the negotiation and preparation of this Agreement and this Agreement shall not be construed either more or less strongly against or for either party.

Section 15. Binding Effect. Except as limited herein, the terms and provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, devisees, personal and legal representatives, successors and assigns.

Section 16. Gender. Within this Agreement, words of any gender shall be held and construed to include any other gender, and words in the singular number shall be held and construed to include the plural, unless the context otherwise requires.

Section 17. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, and all of which shall constitute but one and the same instrument.

Section 18. Exhibits. All exhibits to this Agreement are incorporated herein by reference for all purposes wherever reference is made to the same.

Section 19. Entire Agreement. It is understood and agreed that this Agreement contains the entire agreement between the parties and supersedes any and all prior agreements, arrangements or understandings between the parties relating to the subject matter. No oral understandings, statements, promises or inducements contrary to the terms of this Agreement exist. This Agreement cannot be changed or terminated orally.

Section 20. Relationship of Parties. Nothing contained in this Agreement shall be deemed or construed by the parties hereto or by any third party to create the relationship of principal and agent or of partnership or of joint venture or of any association whatsoever between the parties, it being expressly understood and agreed that no provision contained in this Agreement nor any act or acts of the parties hereto shall be deemed to create any relationship between the parties other than the relationship of independent parties contracting with each other solely for the purpose of effecting the provisions of this Agreement.

Section 21. Right To Audit. City shall have the right to examine and audit the books and records of Contractor with regards to the work described in Exhibit A, or any subsequent changes, at any reasonable time. Such books and records will be maintained

in accordance with generally accepted principles of accounting and will be adequate to enable determination of: (1) the substantiation and accuracy of any payments required to be made under this Agreement; and (2) compliance with the provisions of this Agreement.

22. Dispute Resolution. In accordance with the provisions of Subchapter I, Chapter 271, TEX. LOCAL GOV'T CODE, the parties agree that, prior to instituting any lawsuit or other proceeding arising from a dispute under this agreement, the parties will first attempt to resolve the dispute by taking the following steps: (1) A written notice substantially describing the nature of the dispute shall be delivered by the dissatisfied party to the other party, which notice shall request a written response to be delivered to the dissatisfied party not less than 5 days after receipt of the notice of dispute. (2) If the response does not reasonably resolve the dispute, in the opinion of the dissatisfied party, the dissatisfied party shall give notice to that effect to the other party whereupon each party shall appoint a person having authority over the activities of the respective parties who shall promptly meet, in person, in an effort to resolve the dispute. (3) If those persons cannot or do not resolve the dispute, then the parties shall each appoint a person from the highest tier of managerial responsibility within each respective party, who shall then promptly meet, in person, in an effort to resolve the dispute.

23. Disclosure of Business Relationships/Affiliations; Conflict of Interest Questionnaire. Contractor represents that it is in compliance with the applicable filing and disclosure requirements of Chapter 176 of the Texas Local Government Code.

24. Boycott Israel. The City may not enter into a contract with a company for goods and services unless the contract contains a written verification from the company; (i) it does not Boycott Israel; and (ii) will not Boycott Israel during the term of the contract. (Texas government code chapter 2270) by entering this agreement, Professional verifies that it does not Boycott Israel, and agrees that during the term of the agreement will not Boycott Israel as that term is defined in the Texas Government Code Section 808.001, as amended.

25. Energy Company Boycotts. Contractor represents and warrants that: (1) it does not, and will not for the duration of the contract, boycott energy companies or (2) the verification required by Section 2274.002 of the Texas Government Code does not apply to the contract. If circumstances relevant to this provision change during the course of the contract, Contractor shall promptly notify City.

26. Firearm Entities and Trade Association Discrimination. Contractor verifies that: (1) it does not, and will not for the duration of the contract, have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association or (2) the verification required by Section 2274.002 of the Texas Government Code does not apply to the contract. If circumstances relevant to this provision change during the course of the contract, Contractor shall promptly notify City.

27. Sales Tax. The City qualifies as an exempt agency under the Texas Limited Sales, Excise and Use Tax Act (the "Tax Act") and is not subject to any State or City sales taxes on materials incorporated into the project. Labor used in the performance of this contract is also not subject to State or City sales taxes. The City will provide an exemption certificate to the Contractor. The Contractor must have a sales tax permit issued by the Comptroller of Public Accounts and shall issue a resale certificate complying with the Tax Act, as amended, when purchasing said materials. The Contractor is responsible for any sales taxes applicable to equipment purchases, rentals, leases, consumable supplies which are not incorporated into the services to be provided under this Contract, tangible personal property purchased for use in the performance of this Contract and not completely consumed, or other taxable services used to perform this Contract, or other taxes required by law in connection with this Contract.

28. Compliance with Laws, Charter, Ordinances. Contractor, its agents, employees and subcontractors must comply with all applicable federal and state laws, the ordinances of the City of Fair Oaks Ranch, and with all applicable rules and regulations promulgated by local, state and national boards, bureaus and agencies. Contractor must obtain all necessary permits, bonds and licenses that are required in completing the work contracted for in this agreement.

29. Liquidated Damages. Contractor hereby acknowledges that the award of the contract includes the requirement to timely commence the work on the Project in accordance with the fully executed Contract. Contractor hereby further agrees to pay to City as liquidated damages the applicable sum quoted below, for each calendar day in excess of the time set forth for completion of the Project. Time of completion is of the essence for the Project.

For each day that any work shall remain uncompleted after the time specified in the Contract, or the increased time granted by the City, or as equitably increased by additional work or materials ordered after the Contract is executed, the sum per day given in the following schedule, unless otherwise specified in the special provisions, shall be deducted from the monies due from the City:

AMOUNT OF CONTRACT	AMOUNT OF LIQUIDATED DAMAGES
Less than \$25,000.00	\$100.00 Per Day
\$25,000.00 to \$99,999.99	\$150.00 Per Day
\$100,000.00 to \$499,999.99	\$200.00 Per Day
\$500,000.00 to \$1,000,000.00	\$250.00 Per Day
More than \$1,000,000.00 (sliding scale)	\$350 Per Day first 30 days; \$400 Per Day 31-60 days; \$500 Per Day 90 days and beyond

The sum of money thus deducted for such delay, failure or non-completion is not to be considered as a penalty, but shall be deemed, taken and treated as reasonable liquidated damages, per day that the default shall continue after the time stipulated in the Contract for completing the work. The said amounts are fixed and agreed upon because of the impracticability and extreme difficulty of fixing and ascertaining the actual damages that the City in such event would sustain; and said amounts are agreed to be the amounts of damages which the City would sustain and which shall be retained from the monies due, or that may become due, under the Contract; and if said monies be insufficient to cover the amount owing, then the surety shall pay any additional amounts due. Notwithstanding the foregoing, in the event that the actual damages incurred by the City exceed the amount of liquidated damages, the City shall be entitled to recover its actual damages.

30. Warranty

The Contractor shall provide a warranty covering defect of material and workmanship for one calendar year following final completion of the Project.

EXECUTED on August 5th, 2024

CITY:

By: 

Name: Scott M. Huizenga

Title: City Manager

CONTRACTOR:

By: 

Name: Nicholas Hitchcock

Title: Director of Texas operations

ADDRESS FOR NOTICE:

CITY

City of Fair Oaks Ranch
Attn: Scott M. Huizenga
7286 Dietz Elkhorn
Fair Oaks Ranch, TX 78015

CONTRACTOR

Patti Engineering, Inc.
Attn: Tim Hebert
7601 South Congress Ave. Suite #400
Austin, TX 78745

Exhibit "A"
SCOPE OF SERVICES

Solution
Partner

Automation
Drives

SIEMENS

Patti
ENGINEERING

Proposal 223262a



MODERN SOLUTIONS FOR TODAY'S AUTOMATION CHALLENGES.

PattiEngineering.com

Well Control Improvements

June 12, 2024

Prepared for:

Clayton Hoelscher

City of Fair Oaks Ranch, Texas

Presented by:

Tim Hebert

thebert@PattiEng.com

737-208-9077

csia  CERTIFIED

www.pattiengineering.com



Corporate Office

2110 E. Walton Blvd.
Suite A
Auburn Hills, MI 48326
248.364.3200
800.852.0994 US only

Texas

7601 South Congress Ave.
Suite #400
Austin, TX 78745
512.355.4199

Indiana

7202 East 87th St.
Suite 101
Indianapolis, IN 46256
765.513.0373

Project Summary

Several well sites serving Elmo Davis and Plant 2 are supplied with single phase power while running three phase pumps. Rotary phase converters are used to add the third phase needed by the pumps. This equipment is old, noisy (sound and electrical) and inefficient. The City of Fair Oaks has asked Patti Engineering to provide a fixed price proposal for engineering services to upgrade the motor controls.

Wells targeted:

- 25 – Plant 2
- 27 – Plant 2
- 28 – Plant 2
- 31 – Elmo Davis
- 26 - *Optional*

Patti Engineering will replace the existing rotary phase converters with Siemens G120 modular multifunctional frequency converters (aka VFD). The VFD's will provide the third phase of electricity required by the pumps along with programmed start/stop functionality. Each unit will be installed in an outdoor rated enclosure along with the necessary radio control hardware.

Current installation, to be demoed (typical)



VFD



PROVEN AUTOMATION SOLUTIONS
Reliable Support • Trusted Partner

223262a

Fair Oaks Ranch

Well Control Improvements



Customer Responsibilities

ACCESS TO:

- The facility(s) and equipment and assist Patti Engineering as needed with install, testing, and verification
- An expert in the functional use and process requirements of all currently installed customer equipment and/or all proposed equipment – You best know your process

MATERIALS:

- Detailed sequence of operation and a functional specification describing how the system should operate
- Current copies of all sample, template and existing software
- Current copies of all relevant mechanical prints, 3D CAD drawings, simulations, etc.
- Any passwords necessary to access and modify the code
- All programs must be sufficiently commented to be understandable
- Current or sample (*as applicable*) electrical drawings in AutoCAD format
- All required 3rd party licenses for installed systems (*software, drivers, etc.*)
- The above materials must be supplied within the first two weeks of project kickoff, and be accurate and complete in their initial submitted form, or an additional PO may be required

REQUIRED:

- Electrical and network feeds as required by designed systems
- Coordinated upstream disconnect of electric utilities



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223262a

Fair Oaks Ranch

Well Control Improvements



Patti Engineering Responsibilities

Provide controls system engineering as described in the Project Summary above except as specifically stated otherwise within this proposal.

ENGINEERING DEVELOPMENT

Provide offsite engineering development services

- Programming
 - Configure and commission VFDs and radios
- Electrical/CAD design (AutoCAD format)
 - New and updated prints

MATERIALS/EQUIPMENT

Provide required electrical controls hardware for each site (4):

- Outdoor electrical enclosures including:
 - VFD
 - Air conditioner
 - Fused disconnect
 - Radio hardware
- Electrical material
 - New service entrance disconnect and conductors
- *Optional manual transfer switch and generator receptacle*
 - *Wells 25 and 31 only*
- *Optional Well 26*
 - *Manual transfer switch and generator receptacle not included*
 - *Includes additional time for install and support*

ONSITE SUPPORT for BASE SCOPE

Provide up to 4 days (single shift) for:

- Installation supervision
- Configuration and tuning
- Debug
- Commissioning

Provide up to 2 days (single shift) for:

- Production support

If more than any of the above allotted time is required/requested and Patti Engineering is not directly responsible for the need for the additional time, an extension PO will be required to continue onsite support.

Identified Project Risks

- Prevented access to sites may require a change order for additional trips.
- Demoed equipment to be removed from site by client.
- Existing submersible pumps are assumed to be in good working order and capable of being controlled by VFD.
- Existing motor conductors are assumed to be in good condition and VFD rated.
- Existing concrete slabs are assumed to be in good condition and capable of supporting new equipment.
- *Optional Well 26 has not been reviewed for this proposal and is assumed to be of similar scope and complexity as the others. Additional scope will require a change order.*
- Spares are not included

SAFETY

- No engineering analysis of existing safety systems (mechanical or electrical) is provided as part of this proposal. While any obvious safety concerns observed during the project will be noted to the customer, Patti Engineering accepts no responsibility for the safe operation of anything existing on the equipment prior to this work. All liability for the performance of the existing safety equipment remains with the original parties. All Patti Engineering provided equipment will be engineered to operate safely within the existing constraints of the equipment/machine.
- No responsibility for unsafe operation of any associated equipment by 3rd parties is transferred to Patti Engineering through this project.

DELAYS

- Patti Engineering is committed to timely completion of projects for clients, allowing the benefits of the customer's investment to provide quick returns. Patti commits many resources for the duration of the project at the pricing provided to this end. However, a customer may request a halt in progress when a project is to be delayed or put on hold.
 - In support of such client needs, Patti provides up to 4 weeks of customer-initiated delays at no charge.
 - After 4 weeks, an administration fee of 2% of the project total will be charged at the beginning of each month thereafter to offset the cost of keeping the project open and resources available to the project.
 - Given the inflationary and other economic changes that are occurring, a project that has been delayed 6 months or more will require Patti Engineering to revise the pricing of the remaining portion of the project at then current prices before a continuation.
- Supply chain issues are an ongoing concern. Any material needed cannot be committed or expedited until ordered. Please consider this in the timing of purchase orders



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223262a

Fair Oaks Ranch

Well Control Improvements



Investment Required	
ITEM	PRICE
BASE TOTAL	\$240,000

Payment Terms

Patti Engineering will bill this project in the following increments:

- 50% upon receipt of PO (*due upon receipt*)
- 20% upon design review/ready to order materials
- 20% upon ready for onsite support
- 10% upon completion

- This proposal is subject to Patti Engineering’s standard Terms and Conditions (Patti Engineering document #SA.002.12)
- Any additional or out of scope work can be added via a change order or can be billed per Patti Engineering’s rate schedule (Patti Engineering document #SA.005.35)
- Any software provided is subject to Patti Engineering’s standard licensing agreement or the software supplier’s end user license agreement (Patti Engineering document #IS.001.00)
- Proposed pricing is valid for a period of **30 days**
- Any shipping costs, wire transfer, taxes or permit fee costs not specifically covered above shall be the customer’s responsibility
- Work will commence by Patti Engineering only after the PO is received by Patti Engineering
- At this time, Patti Engineering projects that we can be ready onsite no sooner than 16 weeks from the project kickoff
- Please note that this projection can change at any time depending on current workload at time of receipt of a purchase order. If your timeframe is critical, please request a more definitive schedule shortly after we receive your PO
- Once we kickoff the project our engineering department will begin work-planning, order any necessary parts; and, we will be able to offer a more definitive schedule
- Please reference our proposal number in the PO and provide an email address to which we may send billing questions

Exhibit "B"

REQUIREMENTS FOR ALL INSURANCE DOCUMENTS

The Contractor shall comply with each and every condition contained herein. The Contractor shall provide and maintain the minimum insurance coverage set forth below during the term of its agreement with the City. Any Subcontractor(s) hired by the Contractor shall maintain insurance coverage equal to that required of the Contractor. It is the responsibility of the Contractor to assure compliance with this provision. The City of Fair Oaks Ranch accepts no responsibility arising from the conduct, or lack of conduct, of the Subcontractor.

INSTRUCTIONS FOR COMPLETION OF INSURANCE DOCUMENT

With reference to the foregoing insurance requirements, Contractor shall specifically endorse applicable insurance policies as follows:

1. The City of Fair Oaks Ranch shall be named as an additional insured with respect to General Liability and Automobile Liability **on a separate endorsement.**
2. A waiver of subrogation in favor of The City of Fair Oaks Ranch shall be contained in the Workers Compensation and all liability policies and must be provided **on a separate endorsement.**
3. All insurance policies shall be endorsed to the effect that The City of Fair Oaks Ranch will receive at least thirty (30) days written notice prior to cancellation or non-renewal of the insurance.
4. All insurance policies, which name The City of Fair Oaks Ranch as an additional insured, must be endorsed to read as primary and non-contributory coverage regardless of the application of other insurance.
5. **Chapter 1811 of the Texas Insurance Code, Senate Bill 425 82(R) of 2011, states that the above endorsements cannot be on the certificate of insurance. Separate endorsements must be provided for each of the above.**
6. All insurance policies shall be endorsed to require the insurer to immediately notify The City of Fair Oaks Ranch of any material change in the insurance coverage.
7. All liability policies shall contain no cross-liability exclusions or insured versus insured restrictions.
8. Required limits may be satisfied by any combination of primary and umbrella liability insurances.
9. Contractor may maintain reasonable and customary deductibles, subject to approval by The City of Fair Oaks Ranch.
10. Insurance must be purchased from insurers having a minimum AmBest rating of B+.
11. All insurance must be written on forms filed with and approved by the Texas Department of Insurance. (ACORD 25 2010/05). Coverage must be written on an occurrence form.
12. Contractual Liability must be maintained covering the Contractors obligations contained in the contract. Certificates of Insurance shall be prepared and executed by the insurance company or its authorized agent and shall contain provisions

representing and warranting all endorsements and insurance coverages according to requirements and instructions contained herein.

13. Upon request, Contractor shall furnish The City of Fair Oaks Ranch with certified copies of all insurance policies.
14. A valid certificate of insurance verifying each of the coverages required above shall be issued directly to the City of Fair Oaks Ranch within ten (10) business days after contract award and prior to starting any work by the successful Contractor's insurance agent of record or insurance company. Also, prior to the start of any work and at the same time that the Certificate of Insurance is issued and sent to the City of Fair Oaks Ranch, all required endorsements identified in sections A, B, C and D, above shall be sent to the City of Fair Oaks Ranch. The certificate of insurance and endorsements shall be sent to:

City of Fair Oaks Ranch
Attn: Clayton Hoelscher, Procurement Manager
Email: choelscher@fairoaksranchtx.org
7286 Dietz Elkhorn
Fair Oaks Ranch, Texas 78015

Exhibit "C"

EVIDENCE OF INSURANCE



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Fair Oaks Ranch
Water Well Elec. Imp.



Evidence of Insurability



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
10/24/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER CIA Insurance & Risk Management 45600 Village Boulevard Shelby Township MI 48315		CONTACT NAME: Linda Majesko PHONE (A/C, No, Ext): _____ FAX (A/C, No): _____ E-MAIL ADDRESS: lmajosko@ciainsurance.com	
INSURED Patti Engineering Inc 2110 E. Walton Blvd, Suite A Auburn Hills MI 48326		INSURER(S) AFFORDING COVERAGE INSURER A: Philadelphia Indemnity Insurance Co NAIC # 18058 INSURER B: Accident Fund National Insurance Co 12305 INSURER C: Chubb INSURER D: Hiscox INSURER E: INSURER F:	

COVERAGES CERTIFICATE NUMBER: 23/24 Master REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:			PHPK2618115	11/01/2023	11/01/2024	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 Employee Benefits \$ 1,000,000
A	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY			PHPK2618115	11/01/2023	11/01/2024	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ PIP-Basic \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 10,000			PHUB887077	11/01/2023	11/01/2024	EACH OCCURRENCE \$ 4,000,000 AGGREGATE \$ 4,000,000
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in MI) <input type="checkbox"/> If yes, describe under DESCRIPTION OF OPERATIONS below		N/A	100069300	11/01/2023	11/01/2024	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
A	Professional Liability			PHPK2618116	11/01/2023	11/01/2024	Each Claim \$2,000,000 Aggregate \$2,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
 General liability coverage includes Contractual Liability as broad as ISO Form CG0001.

CERTIFICATE HOLDER City of Fair Oaks Ranch Tobin Maples 7286 Dietz Elkhorn Fair Oaks Ranch TX 78015	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE
---	--

AMENDMENT # 1

Exhibit A “Scope of Services” of the original agreement that was executed on August 5th, 2024, is amended to add the Well # 26 location, which was originally listed as optional. The amount to add this location is \$60,000.00. No other changes to the scope of services or terms and conditions are being made.

EXECUTED on _____.

CITY:

CONTRACTOR:

By: _____

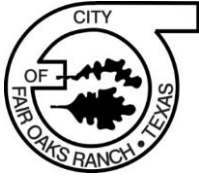
By: _____

Name: Scott M. Huizenga

Name: _____

Title: City Manager

Title: _____



CITY COUNCIL CONSENT ITEM

CITY OF FAIR OAKS RANCH, TEXAS

AGENDA TOPIC: Approval of a resolution authorizing the execution of agreements with Maguire Iron, Inc. for water tank maintenance services, expenditure of the required funds, and execution of all applicable documents by the City Manager

DATE: November 21, 2024

DEPARTMENT: Finance

PRESENTED BY: Consent Item: Clayton Hoelscher, Procurement Manager

INTRODUCTION/BACKGROUND:

The City budgeted \$207,036 to start a long-term water storage tank cleaning, inspection and maintenance program. The Texas Commission on Environmental Quality (TCEQ) requires potable storage tanks to be inspected annually, cleaned every three to five years, and maintained to ensure structural and sanitary integrity. Due to the harsh Texas climate, potable storage tanks are normally recoated every 10 years (externally) and 15 years (internally) to protect steel components from corrosion. The program has a ten-year duration with the same annual cost of \$207,036 per year which covers all seven of the City's water tanks. Each water tank has its own unique maintenance plan for the ten-year period, which is reflected in **Exhibit A** in the accompanying resolution. Each tank has its own ten-year agreement, which can be cancelled after each individual year.

To support this, the City received proposals from Maguire Iron, Inc. for this maintenance plan. The City will utilize The Interlocal Purchasing System (TIPS) purchasing cooperative for this purchase. Utilizing the TIPS cooperative fulfills the City's competitive requirements.

City staff and GEC conducted reference checks with other cities that have long-term tank maintenance agreements with Maguire Iron, including the City of Jourdanton, City of Marfa, City of Port Lavaca, City of Olton, City of Sequin, City of Pearsall, City of Nixon, City of Crowley and others. All respondents stated Maguire Iron is very responsive, provides high-quality craftsmanship, self-performs the work (i.e. does not subcontract out), and would recommend them to others. Some cities also stated they plan to enter into another maintenance service contract upon expiration of their current contract.

POLICY ANALYSIS/BENEFIT(S) TO CITIZENS:

- Supports Priority 3.1 of the Strategic Action Plan to Enhance and Ensure Continuity of Reliable Water Resources.
- Complies with Competitive Procurement Requirements.

LONGTERM FINANCIAL & BUDGETARY IMPACT:

The City budgeted \$207,036 for this project, which is adequate to cover the annual cost of the tank maintenance agreements. The City will include the annual cost in future proposed budgets for the duration of the agreements.

LEGAL ANALYSIS:

The City Attorney has reviewed and approved the Maintenance Agreements.

RECOMMENDATION/PROPOSED MOTION:

Consent Item - I move to approve a resolution authorizing the execution of agreements with Maguire Iron, Inc. for water tank maintenance services for a total value not to exceed \$207,036 annually, expenditure of the required funds, and execution of all applicable documents by the City Manager.

A RESOLUTION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FAIR OAKS RANCH, TEXAS AUTHORIZING THE EXECUTION OF AGREEMENTS WITH MAGUIRE IRON, INC. FOR WATER TANK MAINTENANCE SERVICES, EXPENDITURE OF THE REQUIRED FUNDS, AND EXECUTION OF ALL APPLICABLE DOCUMENTS BY THE CITY MANAGER

WHEREAS, the City of Fair Oaks Ranch (the “City”) included funds in FY 2024-25 for water tank cleaning, inspections and maintenance; and

WHEREAS, the City is executing these agreements in accordance with Texas Local Government Code 791 by utilizing the Interlocal Purchasing System purchasing cooperative; and

WHEREAS, the total cost for these agreements is \$207,036.00 annually (**Exhibit A**); and

WHEREAS, each location will have its own agreement for up to ten years, which can be cancelled after each individual year; and

WHEREAS, the City Council of the City of Fair Oaks Ranch supports the project and authorizes the execution of agreements with Maguire Iron, Inc. (**Exhibit B**).

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAIR OAKS RANCH, TEXAS:

Section 1 The City Council hereby authorizes the City Manager to execute agreements with Maguire Iron, Inc. for water tank cleaning, inspections and maintenance, to expend required funds up to \$207,036.00 and to execute any and all applicable documents to effectuate this resolution.

Section 2. That the recitals contained in the preamble hereto are hereby found to be true and such recitals are hereby made a part of this resolution for all purposes and are adopted as a part of the judgment and findings of the Council.

Section3. If any provision of this resolution or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this resolution and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City Council hereby declares that this resolution would have been enacted without such invalid provision.

Section 4. That it is officially found, determined, and declared that the meeting at which this resolution is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this resolution, was given, all as required by Chapter 551, as amended, Texas Government Code.

Section 5. All resolutions or parts thereof, which are in conflict or inconsistent with any provision of this resolution are hereby repealed to the extent of such conflict, and the provision of this resolution shall be and remain controlling as to the matters resolved herein.

- Section 6.** This resolution shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.
- Section 7.** This resolution shall be in force and effect from and after its final passage, and it is so resolved.

PASSED, APPROVED, and ADOPTED on this 21st day of November 2024.

Gregory C. Maxton, Mayor

ATTEST:

APPROVED AS TO FORM:

Christina Picioccio, TRMC
City Secretary

Denton Navarro Rodriguez Bernal Santee & Zech
P.C., City Attorney

**EXHIBIT A
PRICE AND LOCATIONS**

	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034
Elmo Davis Tank #1, 500MG GST	TCEQ- Visual Inspection	Interior and Exterior Renovation + Repairs	TCEQ- Visual Inspection	TCEQ- Visual Inspection	TCEQ- Visual Inspection	Washout Inspection	TCEQ- Visual Inspection	TCEQ- Visual Inspection	TCEQ- Visual Inspection	Washout Inspection
Price	\$46,046	\$46,046	\$46,046	\$46,046	\$46,046	\$46,046	\$46,046	\$46,046	\$46,046	\$46,046
Elmo Davis Tank #2, 500MG GST	Interior and Exterior Renovation + Repairs	TCEQ- Visual Inspection	TCEQ- Visual Inspection	TCEQ- Visual Inspection	Washout Inspection	TCEQ- Visual Inspection	TCEQ- Visual Inspection	TCEQ- Visual Inspection	Washout Inspection	TCEQ- Visual Inspection
Price	\$49,246	\$49,246	\$49,246	\$49,246	\$49,246	\$49,246	\$49,246	\$49,246	\$49,246	\$49,246
Plant #2, Left Tank #1, 150MG GST	Washout Inspection	TCEQ- Visual Inspection	TCEQ- Visual Inspection	Interior and Exterior Renovation + Repairs	TCEQ- Visual Inspection	TCEQ- Visual Inspection	TCEQ- Visual Inspection	Washout Inspection	TCEQ- Visual Inspection	TCEQ- Visual Inspection
Price	\$20,508	\$20,508	\$20,508	\$20,508	\$20,508	\$20,508	\$20,508	\$20,508	\$20,508	\$20,508
Plant #2, Left Tank #2, 400MG GST	Washout Inspection	TCEQ- Visual Inspection	TCEQ- Visual Inspection	TCEQ- Visual Inspection	Interior and Exterior Renovation + Repairs	TCEQ- Visual Inspection	TCEQ- Visual Inspection	TCEQ- Visual Inspection	Washout Inspection	TCEQ- Visual Inspection
Price	\$26,504	\$26,504	\$26,504	\$26,504	\$26,504	\$26,504	\$26,504	\$26,504	\$26,504	\$26,504
Plant #3, Wild Oak Hill Tank #1, 150MG GST	Washout Inspection	TCEQ- Visual Inspection	TCEQ- Visual Inspection	Interior and Exterior Renovation + Repairs	TCEQ- Visual Inspection	TCEQ- Visual Inspection	TCEQ- Visual Inspection	Washout Inspection	TCEQ- Visual Inspection	TCEQ- Visual Inspection
Price	\$19,518	\$19,518	\$19,518	\$19,518	\$19,518	\$19,518	\$19,518	\$19,518	\$19,518	\$19,518

EXHIBIT A

Item #9.

	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034
Plant #3, Wild Oak Hill Tank #2, 350MG GST	Washout Inspection	TCEQ-Visual Inspection	TCEQ-Visual Inspection	TCEQ-Visual Inspection	Interior and Exterior Renovation + Repairs	TCEQ-Visual Inspection	TCEQ-Visual Inspection	TCEQ-Visual Inspection	Washout Inspection	TCEQ-Visual Inspection
Price	\$26,539	\$26,539	\$26,539	\$26,539	\$26,539	\$26,539	\$26,539	\$26,539	\$26,539	\$26,539
Plant #5 125MG GST	Washout Inspection	TCEQ-Visual Inspection	TCEQ-Visual Inspection	TCEQ-Visual Inspection	TCEQ-Visual Inspection	Interior and Exterior Renovation + Repairs	TCEQ-Visual Inspection	TCEQ-Visual Inspection	TCEQ-Visual Inspection	Washout Inspection
Price	\$18,677	\$18,677	\$18,677	\$18,677	\$18,677	\$18,677	\$18,677	\$18,677	\$18,677	\$18,677
Yearly Total	\$207,036	\$207,036	\$207,036	\$207,036	\$207,036	\$207,036	\$207,036	\$207,036	\$207,036	\$207,036



FULL-SERVICE MAINTENANCE PLAN



Fair Oaks Ranch, TX - City of

500KG Elmo GST #1

Fair Oaks Ranch, TX

October 31, 2024

MAGUIREWATER.COM

FULL-SERVICE MAINTENANCE PLAN CONTRACT

THIS AGREEMENT is made this 31 day of October, 2024, by and between Fair Oaks Ranch, TX - City of, hereinafter referred to in this Agreement as "Owner", and Maguire Iron, Inc. of Sioux Falls, SD, hereinafter referred to in this Agreement as "the Company".

This Agreement along with all incorporated documents referenced herein shall set forth the full terms and conditions agreed to between the parties in reference to the inspection, maintenance, and rehabilitation of the 500KG GST Elmo #1 Water Tower(s) by the Company as outlined in **Schedule A**.

1. SCOPE:

The Owner agrees to employ the Company to maintain its water storage tanks in accordance with this Agreement. This Agreement binds the Company to responsibility for the care and maintenance of the above described water storage tanks. Care and maintenance shall include the following:

- a. **Inspection:** The Company will annually inspect and service the tanks beginning in the year of 2025 as per the schedule with visual inspections and cleanout inspections. If any significant repair or touch up is observed we will schedule a time for the owner to drain the tank to make necessary repairs.
- b. **Drainage:** When a cleanout/inspection is done, the tanks will be completely drained and cleaned to remove and properly dispose of all sediment and other accumulations that might be harmful to the tank or its contents (not including staining). This cleaning will use high-pressure equipment. Any necessary touch up will be done at time of cleaning to extend coating life.
- c. **Disinfection:** After cleaning is completed, the interior will be inspected and disinfected by the Company prior to returning to service. Sampling and testing will be the responsibility of the Owner.
- d. **Painting:** The Company will clean and repaint the interior and/or exterior of the tanks at such time as painting is needed, but at a minimum in accordance with the schedule mutually agreed upon by the Owner and the Company, unless otherwise requested and extended by the Owner in writing. The need for interior painting will be determined by the thickness of the existing liner and its protective condition. The need for exterior painting will be determined by the appearance and protective condition of the existing paint. When painting is needed, all products and procedures will be equal to, or exceed the requirements of the state, the American Water Works Association, and the Steel Structures Painting Council as to surface preparation, coating materials, and disinfections. A lock, provided by the Owner will be installed on the roof hatch of the tanks to prevent any unauthorized entry to the water tanks. The keys to the tank will be retained by the Owner.

- e. **Emergency:** The Company will provide emergency services, when needed, to perform all repairs covered under this contract. Reasonable travel time must be allowed for the repair unit to reach the tank site. The Company will furnish temporary use of relief valves, if needed, to install in the water system so the Owner can pump direct to maintain water pressure while the tank is being serviced. The owner has the option to purchase relief valves for long-term use.
- f. **Exclusions:** This Agreement does NOT include the cost for and/or liability on the part of the Company for: (1) containment of the tanks at any time during the term of the Agreement; (2) disposal of any hazardous waste materials; (3) resolution of operational problems or structural damage due to cold weather, acts of terrorism or other "Acts of God"; (4) repair of structural damage due to antenna installations or other attachments for which the tank was not originally designed; (5) riser pipes that are smaller than 36 inches in diameter; (6) insulation, frost jackets, and fill lines; (7) negligent or intentional acts of Owner's employees, invitees, agents, or contractors or subcontractor or any person or entity under Owner's control; (8) resolution of operational problems or repair of structural damage or site damage caused by physical conditions below the surface of the ground; (9) damages, whether foreseen or unforeseen, caused by the Owner's use of pressure relief valves and site conditions; (10) repairs to the foundation of the tank; (11) payment of prevailing wages at any time throughout the duration of this agreement; (12) negligent acts of Owner's employees, agents or contractors in the operation of the water system.

2. **INSURANCE:**

The Company will furnish current certificates of insurance coverage to the Owner at the time any work is performed. Company insurers shall waive subrogation

3. **TERM:**

This agreement shall be for one year and automatically renews annually on the contract execution date. The Owner shall have the right to continue this contract for an indefinite period of time providing the annual fee is paid in accordance with the terms of payment. This agreement is subject to termination by the Owner upon written notice of intent to terminate which must be received by the Company ninety (90) days prior to the effective date of termination. Notice of Termination is to be delivered by certified mail to Maguire Iron Inc. PO Box 1446 Sioux Falls, SD 57101, and signed by the Mayor, City Manager or authorized agent. The owner will be responsible to the Company for the cost (at current market rates) of any work that has been performed prior to termination. Any disputes arising out of such termination are subject to the remedies section hereinafter set out.

4. **COST/PAYMENT TERM:**

The cost of the program is detailed in the **attached Schedule A**. Each year thereafter, the annual fee will be adjusted to reflect the current cost of service. The adjustments will be limited to a five percent annual increase. **Payment Options:** ___quarterly, ___semi-annually, or X

annual payments are due the first business day of selected payment period. Net 30 days from acceptance and invoicing, plus applicable sales, use, excise, transfer or similar taxes required by law. A service charge of 1.5% per month (18% per annum) will be charged on past due accounts.

5. TANK MODIFICATION:

The Company's fees are based upon the existing structure and components of the tanks. *Any modifications to the tanks, including but not limited to antenna installations, shall be approved by the Company, prior to installation or modification and may result in an increase to the annual fee.*

6. CHANGES IN LAW:

The Owner agrees that future mandated environmental, health, safety, or labor requirements as well as changes in site conditions at the tank site which cause an increase in the cost of tank maintenance will be just cause for modification of Section 4 of this Agreement. Modification of this Agreement will reasonably reflect the increased cost of the service with a newly negotiated annual fee.

7. ASSIGNMENT:

The Owner may not assign or otherwise transfer all or any of its interest under this Agreement without the prior written consent of the Company. If the Company agrees to the assignment, the Owner shall remain responsible under this Agreement, until its assignee assumes in full and in writing all of the obligations of the Owner under this Agreement.

8. INDEMNIFICATION:

THE COMPANY AGREES TO INDEMNIFY THE OWNER AND HOLD THE OWNER HARMLESS FROM ANY AND ALL CLAIMS, DEMANDS, ACTIONS, DAMAGES, LIABILITY, AND EXPENSE IN CONNECTION WITH LOSS OF LIFE, PERSONAL INJURY, AND/OR DAMAGE TO PROPERTY CAUSED BY ANY ACT, OMISSION, OF THE COMPANY OR ITS SUBCONTRACTORS, AGENTS, OR EMPLOYEES. THE OWNER AGREES TO INDEMNIFY THE COMPANY AND HOLD THE COMPANY HARMLESS FROM ANY AND ALL CLAIMS, DEMANDS, ACTIONS, DAMAGES, LIABILITY, AND EXPENSE IN CONNECTION WITH LOSS OF LIFE, PERSONAL INJURY, AND/OR DAMAGE TO PROPERTY CAUSED BY ACT OR OMISSION OF THE OWNER OR ITS CONTRACTORS, AGENTS, OR EMPLOYEES. THE INDEMNIFICATION PROVIDED IN THIS PARAGRAPH DOES NOT AFFECT THE COMPANY'S LIMITATIONS OF LIABILITY SET FORTH IN OTHER PARAGRAPHS OF THIS AGREEMENT.

9. REMEDIES

Company or Owner shall in no event be liable for consequential, incidental or punitive damages whatsoever.

10. MISCELLANEOUS:

No modifications, amendments, or alterations of this Agreement may be made except in writing signed by all the parties to this Agreement. No failure or delay on the part of any party hereto in exercising any power or right hereunder shall operate as a waiver thereof. The parties expressly warrant that the individuals who sign below are authorized to bind them without further action.

11. ENTIRE AGREEMENT:

This Agreement constitute the entire agreement of the parties and supersedes all prior communications, understandings, and agreement relating to the subject matter hereof, whether oral or written.

12. SEVERABILITY:

If any term of this Agreement is to any extent invalid, illegal, or incapable of being enforced, such term shall be excluded to the extent of such invalidity, illegality, or unenforceability; all other terms hereof shall remain in full force and effect.

13. VISUAL INSPECITON DISCLAIMER

This Contract is based upon a visual inspection of the Tank. The Owner and the Company hereby acknowledge and agree that a visual inspection is intended to assess the condition of the Tank for all patent defects. If latent defects are identified once the tank has been drained for repairs, the Owner agrees and acknowledges that the Company shall not be responsible to repair the latent defects unless the Owner and the Company renegotiate the annual fees. The definition of a "latent defect" shall be any defect of the Tank which is not easily discovered (e.g., corrosion of the floor plates, damage to the roof of the tank which is not clearly visible during the visual inspection, etc.).

Compliance with all Codes, Permitting and Licensing Requirements. The successful contractor shall comply with all national, state and local standards, codes and ordinances as well as any other authorities that have jurisdiction pertaining to equipment and materials used and their application. None of the terms or provisions of the specification shall be construed as waiving any rules, regulations or requirements of these authorities. The successful bidder shall be responsible for obtaining all necessary permits, certificates and/or licenses to fulfill contractual obligations.

Liability and Indemnity of City. Any provision of the Contract is void and unenforceable if it: (1) limits or releases either party from liability that would exist by law in the absence of the provision; (2) creates liability for either party that would not exist by law in the absence of the provision; or (3) waives or limits either party's rights, defenses, remedies, or immunities that would exist by law in the absence of the provision.. (Section 5, Article XI, Texas Constitution)

Indemnity and Independent Contractor Status of Contractor. Contractor shall indemnify, save harmless and defend the City, its officers, agents, and employees from and against any and all suits, actions, legal proceedings, claims, demands, damages, costs, expenses, attorney's fees and any and all other costs or fees (whether grounded in Constitutional law, Tort, Contract, or Property Law, or raised pursuant to local, state or federal statutory provision), arising out of the performance of the resulting agreement and/or arising out of a

willful or negligent act or omission of the contractor, its officers, agents, and employees. It is understood and agreed that the contractor and any employee or sub-contractor of contractor shall not be considered an employee of the City. The contractor shall not be within protection or coverage of the City's workers' compensation insurance, health insurance, liability insurance or any other insurance that the City from time to time may have in force and effect. City specifically reserves the right to reject any and all contractor's employees, representatives or sub-contractors and/or their employees for any cause, should the presence of any such person on City property or their interaction with City employees be found not in the best interest of the City, harassing, or is found to interfere with the effective and efficient operation of the City's workplace.

Liens. Contractor agrees to and shall indemnify and save harmless the City against any and all liens and encumbrances for all labor, goods and services which may be provided under the resulting agreement. At the City's request the contractor or subcontractors shall provide a proper release of all liens, or satisfactory evidence of freedom from liens shall be delivered to the City.

Tax Exemption. The City is not liable to Vendor for any federal, state, or local taxes for which the City is not liable by law, including state and local sales and use taxes (Section 151.309 and Title 3, Texas Tax Code) and federal excise tax (Subtitle D of the Internal Revenue Code). Accordingly, those taxes may not be added to any item. Texas limited sales tax exemption certificates will be furnished upon request. Vendors shall not charge for said taxes. If billed, the City will remit payment less sales tax.

Contractual Limitations Period. Any provision of the Contract that establishes a limitations period that does not run against the City by law or that is shorter than two years is void. (Sections 16.061 and 16.070, Texas Civil Practice and Remedies Code)

Sovereign Immunity. Any provision of the Contract that seeks to waive the City's immunity from suit and/or immunity from liability is void unless agreed to by specific acknowledgement of the provision within the contract.

Governing Law and Venue. Texas law governs this Contract and any lawsuit on this Contract must be filed in a court that has jurisdiction in Travis County, Texas.

Certificate of Interested Parties (TEC Form 1295). For contracts needing City Council approval, the City may not accept or enter into a contract until it has received from the Contractor a completed, and signed TEC Form 1295 complete with a certificate number assigned by the Texas Ethics Commission ("TEC"), pursuant to Texas Government Code § 2252.908 and the rules promulgated thereunder by the TEC. The Contractor understands that failure to provide said form complete with a certificate number assigned by the TEC may prohibit the City from entering the Contract.

Pursuant to the rules prescribed by the TEC, the TEC Form 1295 must be completed online through the TEC's website, assigned a certificate number, printed, signed and notarized, and provided to the City. The TEC Form 1295 may accompany the bid or may be submitted separately, but must be provided to the City prior to the award of the contract. Neither the City nor its consultants have the ability to verify the information included in a TEC Form 1295, and neither have an obligation nor undertake responsibility for advising any bidder with respect to

the proper completion of the TEC Form 1295.

Texas Government Code Mandatory Provisions. The City may not enter into a contract with a company for goods and services unless the contract contains a written verification from the company that it; (i) does not boycott Israel; (ii) will not boycott Israel during the term of the contract; (iii) does not boycott energy companies; (iv) will not boycott energy companies during the term of the contract; (v) does not have a practice, policy, guidance or directive that discriminates against a firearm entity or firearm trade association; and (vi) will not discriminate during the term of the contract against a firearm entity or firearm trade association (Texas Government Code, Chapter 2271.002; 2274.002).

Company hereby verifies that it does not boycott Israel, and agrees that, during the term of this agreement, will not boycott Israel as this term is defined in the Texas Government Code, Section 808.001, as amended. Company hereby verifies that it does not boycott energy companies, and agrees that, during the term of this agreement, will not boycott energy companies as this term is defined in Texas Government Code, Section 809.001, as amended. Company hereby verifies that it does not have a practice, policy, guidance or directive that discriminates against a firearm entity or firearm trade association, and agrees that, during the term of this agreement, will not discriminate against a firearm entity or firearm trade association as those terms are defined in Texas Government Code, Section 2274.001, as amended.

Company hereby certifies that it is not a company identified under Texas Government Code, Section 2252.152 as a company engaged in business with Iran, Sudan, or Foreign Terrorist Organizations.

Owner: _____

MAGUIRE IRON, INC.

By: _____
(Name) (Title)

By: _____
(Name) (Title)

By: Roxana Bagwell 09/27/2024
(Authorized Agent) (Date)

Date Accepted: _____

Upon acceptance, please provide two (2) signatures and date the agreement.

WITNESSETH:

Contractor agrees to make the following repairs and improvements on the Owner's water supply tank, and to furnish the necessary equipment, labor, material, as well as Workmen's Compensation Insurance and Contractor's Liability Insurance, and to do the work hereinafter stated in a good and workmanlike manner.

Exterior Renovation

- Contractor will pressure wash the complete exterior (100%) in accordance with SSPC SP No. 12.
- Contractor will SSPC SP No. 2 / 3 Hand tool clean / Power tool clean all rusted areas.
- Contractor will apply one (1) spot coat of epoxy to the rusted and abraded areas. Coatings shall be applied to manufacturer's recommended film thickness (2.0 - 4.0 mils DFT).
- Contractor will apply one (1) finish coat of acrylic to the complete exterior (100%) shall be applied to the manufacturer's recommendations (2.0 - 3.0 mils DFT).

Interior Wet Renovation

- Contractor will abrasive blast clean the complete interior (100%) to an SSPC - SP No. 10 "Near White Metal". After abrasive blast cleaning, all surfaces shall be cleaned of any dust residue or foreign debris.
- Contractor will apply one (1) prime coat of NSF-61 approved zinc rich primer to the complete interior (100%) shall be applied to manufacturer's recommended film thickness (2.5 - 3.5 mils DFT).
- Contractor will apply one (1) additional coat of NSF-61 approved epoxy to be applied by brush and roller to all edges, weld seams and sharp angles.
- Contractor will apply one (1) intermediate coat of NSF-61 approved epoxy to the complete interior (100%) shall be applied to the manufacturer's recommendations (4.0 - 6.0 mils DFT).
- Contractor will apply one (1) finish coat of NSF-61 approved epoxy to the complete interior (100%) shall be applied to the manufacturer's recommendations (4.0 - 6.0 mils DFT).

Disinfection Method

- Contractor will disinfect the interior of the tank as per AWWA Standard C652-02, Chlorine Method #3 prior to the owner filling the tank.
- Water samples and testing is the responsibility of the owner.

Frost Proof Vent

- Contractor will remove existing vent and furnish and install a new state compliant 30 inch fail safe steel vent.

Anti Climb

- Contractor will install an anti-climb device on the exterior ladder approximately 15 ft above grade

Misc Steel Repair - Relocate Pipe-Valve Assembly on Sidewall

Visual Inspection

- Contractor will do a complete inspection along with photos of the complete interior and exterior of the water tower.
- Contractor will work up a report of the findings during the Inspection of the city's water tower and send a detailed report that will include current condition, and future recommendations as applicable. Inspection to cover, Coatings, Sanitary, Security, Safety and Structural conditions.

Cleanout

- Contractor will furnish tools, labor, and materials as well as necessary insurance to perform the work in a good and workmanlike manner.
- Contractor will furnish a pressure relief valve / blow off valve for use by the Owner if needed at no charge.
- Contractor will wash out heavy sediment once the tank is emptied by the owner.
- Contractor will power wash the bottom 6' of the interior wet area of the tank after heavy sediment has been removed from the tank. Some staining may remain.
- Should any emergency repair or renovation be necessary, cost and details to be submitted. No extra work will be done without the owner's authorization.
- Contractor will do a complete inspection along with photos of the complete interior and exterior of the water tank.

Notes:

- Contractor will remove the existing level indicator system. Areas requiring steel plating will be full-seam welded. Remaining tabs, etc. will be ground flush.
- Contractor will relocate/lower the coupler/pipe/valve assembly on the tank sidewall. Location will be confirmed by owner prior to re-installation.



Schedule A: Cost Schedule

Fair Oaks Ranch, TX - City of 500KG GST Elmo #2		
Year	Service	Annual Spend
2025	Paint - Exterior Paint - Interior Wet Steelwork Repairs	\$46,046.00
2026	Visual Inspection	\$46,046.00
2027	Visual Inspection	\$46,046.00
2028	Visual Inspection	\$46,046.00
2029	Clean Out / ROV	\$46,046.00
2030	Visual Inspection	\$46,046.00
2031	Visual Inspection	\$46,046.00
2032	Visual Inspection	\$46,046.00
2032	Clean Out / ROV	\$46,046.00
2033	Visual Inspection	\$46,046.00



FULL-SERVICE MAINTENANCE PLAN



Fair Oaks Ranch, TX - City of

500KG Elmo GST #2

Fair Oaks Ranch, TX

September 27, 2024

MAGUIREWATER.COM

FULL-SERVICE MAINTENANCE PLAN CONTRACT

THIS AGREEMENT is made this 31 day of October, 2024, by and between Fair Oaks Ranch, TX - City of, hereinafter referred to in this Agreement as "Owner", and Maguire Iron, Inc. of Sioux Falls, SD, hereinafter referred to in this Agreement as "the Company".

This Agreement along with all incorporated documents referenced herein shall set forth the full terms and conditions agreed to between the parties in reference to the inspection, maintenance, and rehabilitation of the 500KG GST Elmo #2 Water Tower(s) by the Company as outlined in **Schedule A**.

1. SCOPE:

The Owner agrees to employ the Company to maintain its water storage tanks in accordance with this Agreement. This Agreement binds the Company to responsibility for the care and maintenance of the above described water storage tanks. Care and maintenance shall include the following:

- a. **Inspection:** The Company will annually inspect and service the tanks beginning in the year of 2025 as per the schedule with visual inspections and cleanout inspections. If any significant repair or touch up is observed we will schedule a time for the owner to drain the tank to make necessary repairs.
- b. **Drainage:** When a cleanout/inspection is done, the tanks will be completely drained and cleaned to remove and properly dispose of all sediment and other accumulations that might be harmful to the tank or its contents (not including staining). This cleaning will use high-pressure equipment. Any necessary touch up will be done at time of cleaning to extend coating life.
- c. **Disinfection:** After cleaning is completed, the interior will be inspected and disinfected by the Company prior to returning to service. Sampling and testing will be the responsibility of the Owner.
- d. **Painting:** The Company will clean and repaint the interior and/or exterior of the tanks at such time as painting is needed, but at a minimum in accordance with the schedule mutually agreed upon by the Owner and the Company, unless otherwise requested and extended by the Owner in writing. The need for interior painting will be determined by the thickness of the existing liner and its protective condition. The need for exterior painting will be determined by the appearance and protective condition of the existing paint. When painting is needed, all products and procedures will be equal to, or exceed the requirements of the state, the American Water Works Association, and the Steel Structures Painting Council as to surface preparation, coating materials, and disinfections. A lock, provided by the Owner will be installed on the roof hatch of the tanks to prevent any unauthorized entry to the water tanks. The keys to the tank will be retained by the Owner.

- e. **Emergency:** The Company will provide emergency services, when needed, to perform all repairs covered under this contract. Reasonable travel time must be allowed for the repair unit to reach the tank site. The Company will furnish temporary use of relief valves, if needed, to install in the water system so the Owner can pump direct to maintain water pressure while the tank is being serviced. The owner has the option to purchase relief valves for long-term use.
- f. **Exclusions:** This Agreement does NOT include the cost for and/or liability on the part of the Company for: (1) containment of the tanks at any time during the term of the Agreement; (2) disposal of any hazardous waste materials; (3) resolution of operational problems or structural damage due to cold weather, acts of terrorism or other "Acts of God"; (4) repair of structural damage due to antenna installations or other attachments for which the tank was not originally designed; (5) riser pipes that are smaller than 36 inches in diameter; (6) insulation, frost jackets, and fill lines; (7) negligent or intentional acts of Owner's employees, invitees, agents, or contractors or subcontractor or any person or entity under Owner's control; (8) resolution of operational problems or repair of structural damage or site damage caused by physical conditions below the surface of the ground; (9) damages, whether foreseen or unforeseen, caused by the Owner's use of pressure relief valves and site conditions; (10) repairs to the foundation of the tank; (11) payment of prevailing wages at any time throughout the duration of this agreement; (12) negligent acts of Owner's employees, agents or contractors in the operation of the water system.

2. **INSURANCE:**

The Company will furnish current certificates of insurance coverage to the Owner at the time any work is performed. Company insurers shall waive subrogation

3. **TERM:**

This agreement shall be for one year and automatically renews annually on the contract execution date. The Owner shall have the right to continue this contract for an indefinite period of time providing the annual fee is paid in accordance with the terms of payment. This agreement is subject to termination by the Owner upon written notice of intent to terminate which must be received by the Company ninety (90) days prior to the effective date of termination. Notice of Termination is to be delivered by certified mail to Maguire Iron Inc. PO Box 1446 Sioux Falls, SD 57101, and signed by the Mayor, City Manager or authorized agent. The owner will be responsible to the Company for the cost (at current market rates) of any work that has been performed prior to termination. Any disputes arising out of such termination are subject to the remedies section hereinafter set out.

4. **COST/PAYMENT TERM:**

The cost of the program is detailed in the **attached Schedule A**. Each year thereafter, the annual fee will be adjusted to reflect the current cost of service. The adjustments will be limited to a five percent annual increase. **Payment Options:** ___quarterly, ___semi-annually, or X

annual payments are due the first business day of selected payment period. Net 30 days from acceptance and invoicing, plus applicable sales, use, excise, transfer or similar taxes required by law. A service charge of 1.5% per month (18% per annum) will be charged on past due accounts.

5. TANK MODIFICATION:

The Company's fees are based upon the existing structure and components of the tanks. *Any modifications to the tanks, including but not limited to antenna installations, shall be approved by the Company, prior to installation or modification and may result in an increase to the annual fee.*

6. CHANGES IN LAW:

The Owner agrees that future mandated environmental, health, safety, or labor requirements as well as changes in site conditions at the tank site which cause an increase in the cost of tank maintenance will be just cause for modification of Section 4 of this Agreement. Modification of this Agreement will reasonably reflect the increased cost of the service with a newly negotiated annual fee.

7. ASSIGNMENT:

The Owner may not assign or otherwise transfer all or any of its interest under this Agreement without the prior written consent of the Company. If the Company agrees to the assignment, the Owner shall remain responsible under this Agreement, until its assignee assumes in full and in writing all of the obligations of the Owner under this Agreement.

8. INDEMNIFICATION:

THE COMPANY AGREES TO INDEMNIFY THE OWNER AND HOLD THE OWNER HARMLESS FROM ANY AND ALL CLAIMS, DEMANDS, ACTIONS, DAMAGES, LIABILITY, AND EXPENSE IN CONNECTION WITH LOSS OF LIFE, PERSONAL INJURY, AND/OR DAMAGE TO PROPERTY CAUSED BY ANY ACT, OMISSION, OF THE COMPANY OR ITS SUBCONTRACTORS, AGENTS, OR EMPLOYEES. THE OWNER AGREES TO INDEMNIFY THE COMPANY AND HOLD THE COMPANY HARMLESS FROM ANY AND ALL CLAIMS, DEMANDS, ACTIONS, DAMAGES, LIABILITY, AND EXPENSE IN CONNECTION WITH LOSS OF LIFE, PERSONAL INJURY, AND/OR DAMAGE TO PROPERTY CAUSED BY ACT OR OMISSION OF THE OWNER OR ITS CONTRACTORS, AGENTS, OR EMPLOYEES. THE INDEMNIFICATION PROVIDED IN THIS PARAGRAPH DOES NOT AFFECT THE COMPANY'S LIMITATIONS OF LIABILITY SET FORTH IN OTHER PARAGRAPHS OF THIS AGREEMENT.

9. REMEDIES

Company or Owner shall in no event be liable for consequential, incidental or punitive damages whatsoever.

10. MISCELLANEOUS:

No modifications, amendments, or alterations of this Agreement may be made except in writing signed by all the parties to this Agreement. No failure or delay on the part of any party hereto in exercising any power or right hereunder shall operate as a waiver thereof. The parties expressly warrant that the individuals who sign below are authorized to bind them without further action.

11. ENTIRE AGREEMENT:

This Agreement constitute the entire agreement of the parties and supersedes all prior communications, understandings, and agreement relating to the subject matter hereof, whether oral or written.

12. SEVERABILITY:

If any term of this Agreement is to any extent invalid, illegal, or incapable of being enforced, such term shall be excluded to the extent of such invalidity, illegality, or unenforceability; all other terms hereof shall remain in full force and effect.

13. VISUAL INSPECITON DISCLAIMER

This Contract is based upon a visual inspection of the Tank. The Owner and the Company hereby acknowledge and agree that a visual inspection is intended to assess the condition of the Tank for all patent defects. If latent defects are identified once the tank has been drained for repairs, the Owner agrees and acknowledges that the Company shall not be responsible to repair the latent defects unless the Owner and the Company renegotiate the annual fees. The definition of a "latent defect" shall be any defect of the Tank which is not easily discovered (e.g., corrosion of the floor plates, damage to the roof of the tank which is not clearly visible during the visual inspection, etc.).

Compliance with all Codes, Permitting and Licensing Requirements. The successful contractor shall comply with all national, state and local standards, codes and ordinances as well as any other authorities that have jurisdiction pertaining to equipment and materials used and their application. None of the terms or provisions of the specification shall be construed as waiving any rules, regulations or requirements of these authorities. The successful bidder shall be responsible for obtaining all necessary permits, certificates and/or licenses to fulfill contractual obligations.

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willful or negligent act or omission of the contractor, its officers, agents, and employees. It is understood and agreed that the contractor and any employee or sub-contractor of contractor shall not be considered an employee of the City. The contractor shall not be within protection or coverage of the City's workers' compensation insurance, health insurance, liability insurance or any other insurance that the City from time to time may have in force and effect. City specifically reserves the right to reject any and all contractor's employees, representatives or sub-contractors and/or their employees for any cause, should the presence of any such person on City property or their interaction with City employees be found not in the best interest of the City, harassing, or is found to interfere with the effective and efficient operation of the City's workplace.

Liens. Contractor agrees to and shall indemnify and save harmless the City against any and all liens and encumbrances for all labor, goods and services which may be provided under the resulting agreement. At the City's request the contractor or subcontractors shall provide a proper release of all liens, or satisfactory evidence of freedom from liens shall be delivered to the City.

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Pursuant to the rules prescribed by the TEC, the TEC Form 1295 must be completed online through the TEC's website, assigned a certificate number, printed, signed and notarized, and provided to the City. The TEC Form 1295 may accompany the bid or may be submitted separately, but must be provided to the City prior to the award of the contract. Neither the City nor its consultants have the ability to verify the information included in a TEC Form 1295, and neither have an obligation nor undertake responsibility for advising any bidder with respect to

WITNESSETH:

Contractor agrees to make the following repairs and improvements on the Owner's water supply tank, and to furnish the necessary equipment, labor, material, as well as Workmen's Compensation Insurance and Contractor's Liability Insurance, and to do the work hereinafter stated in a good and workmanlike manner.

Exterior Renovation

- Contractor will pressure wash the complete exterior (100%) in accordance with SSPC SP No. 12.
- Contractor will SSPC SP No. 2 / 3 Hand tool clean / Power tool clean all rusted areas.
- Contractor will apply one (1) spot coat of epoxy to the rusted and abraded areas. Coatings shall be applied to manufacturer's recommended film thickness (2.0 - 4.0 mils DFT).
- Contractor will apply one (1) finish coat of acrylic to the complete exterior (100%) shall be applied to the manufacturer's recommendations (2.0 - 3.0 mils DFT).

Interior Wet Renovation

- Contractor will abrasive blast clean the complete interior (100%) to an SSPC - SP No. 10 "Near White Metal". After abrasive blast cleaning, all surfaces shall be cleaned of any dust residue or foreign debris.
- Contractor will apply one (1) prime coat of NSF-61 approved zinc rich primer to the complete interior (100%) shall be applied to manufacturer's recommended film thickness (2.5 - 3.5 mils DFT).
- Contractor will apply one (1) additional coat of NSF-61 approved epoxy to be applied by brush and roller to all edges, weld seams and sharp angles.
- Contractor will apply one (1) intermediate coat of NSF-61 approved epoxy to the complete interior (100%) shall be applied to the manufacturer's recommendations (4.0 - 6.0 mils DFT).
- Contractor will apply one (1) finish coat of NSF-61 approved epoxy to the complete interior (100%) shall be applied to the manufacturer's recommendations (4.0 - 6.0 mils DFT).

Disinfection Method

- Contractor will disinfect the interior of the tank as per AWWA Standard C652-02, Chlorine Method #3 prior to the owner filling the tank.
- Water samples and testing is the responsibility of the owner.

Frost Proof Vent

- Contractor will remove existing vent and furnish and install a new state compliant 30 inch fail safe steel vent.

Roof Access

- Contractor will remove existing roof manway and install new 30 inch square manway.

Misc Steel Repair

- Remove Level Indicator System
- Relocate Pipe-Valve Assembly on Sidewall
- Patch Hole

Visual Inspection

- Contractor will do a complete inspection along with photos of the complete interior and exterior of the water tower.
- Contractor will work up a report of the findings during the Inspection of the city's water tower and send a detailed report that will include current condition, and future recommendations as applicable. Inspection to cover, Coatings, Sanitary, Security, Safety and Structural conditions.

Cleanout

- Contractor will furnish tools, labor, and materials as well as necessary insurance to perform the work in a good and workmanlike manner.
- Contractor will furnish a pressure relief valve / blow off valve for use by the Owner if needed at no charge.
- Contractor will wash out heavy sediment once the tank is emptied by the owner.
- Contractor will power wash the bottom 6' of the interior wet area of the tank after heavy sediment has been removed from the tank. Some staining may remain.
- Should any emergency repair or renovation be necessary, cost and details to be submitted. No extra work will be done without the owner's authorization.
- Contractor will do a complete inspection along with photos of the complete interior and exterior of the water tank.

Notes:

- Contractor will remove the existing level indicator system. Areas requiring steel plating will be full-seam welded. Remaining tabs, etc. will be ground flush.
- Contractor will relocate/lower the coupler/pipe/valve assembly on the tank sidewall. Location will be confirmed by owner prior to re-installation.



Schedule A: Cost Schedule

Fair Oaks Ranch, TX - City of 500KG GST Elmo #2		
Year	Service	Annual Spend
Year: 1	Paint - Exterior Paint - Interior Wet Steelwork Repairs	\$49,246.00
Year: 2	Visual Inspection	\$49,246.00
Year: 3	Visual Inspection	\$49,246.00
Year: 4	Visual Inspection	\$49,246.00
Year: 5	Clean Out / ROV	\$49,246.00
Year: 6	Visual Inspection	\$49,246.00
Year: 7	Visual Inspection	\$49,246.00
Year: 8	Visual Inspection	\$49,246.00
Year: 9	Clean Out / ROV	\$49,246.00
Year: 10	Visual Inspection	\$49,246.00



FULL-SERVICE MAINTENANCE PLAN



Fair Oaks Ranch, TX - City of

Plant #2, 150KG GST #1

Fair Oaks Ranch, TX

October 31, 2024

MAGUIREWATER.COM

FULL-SERVICE MAINTENANCE PLAN CONTRACT

THIS AGREEMENT is made this 31 day of October, 2024, by and between Fair Oaks Ranch, TX - City of, hereinafter referred to in this Agreement as "Owner", and Maguire Iron, Inc. of Sioux Falls, SD, hereinafter referred to in this Agreement as "the Company".

This Agreement along with all incorporated documents referenced herein shall set forth the full terms and conditions agreed to between the parties in reference to the inspection, maintenance, and rehabilitation of the Plant #2 – 150KG GST #1 Water Tower(s) by the Company as outlined in **Schedule A**.

1. SCOPE:

The Owner agrees to employ the Company to maintain its water storage tanks in accordance with this Agreement. This Agreement binds the Company to responsibility for the care and maintenance of the above described water storage tanks. Care and maintenance shall include the following:

- a. **Inspection:** The Company will annually inspect and service the tanks beginning in the year of 2025 as per the schedule with visual inspections and cleanout inspections. If any significant repair or touch up is observed we will schedule a time for the owner to drain the tank to make necessary repairs.
- b. **Drainage:** When a cleanout/inspection is done, the tanks will be completely drained and cleaned to remove and properly dispose of all sediment and other accumulations that might be harmful to the tank or its contents (not including staining). This cleaning will use high-pressure equipment. Any necessary touch up will be done at time of cleaning to extend coating life.
- c. **Disinfection:** After cleaning is completed, the interior will be inspected and disinfected by the Company prior to returning to service. Sampling and testing will be the responsibility of the Owner.
- d. **Painting:** The Company will clean and repaint the interior and/or exterior of the tanks at such time as painting is needed, but at a minimum in accordance with the schedule mutually agreed upon by the Owner and the Company, unless otherwise requested and extended by the Owner in writing. The need for interior painting will be determined by the thickness of the existing liner and its protective condition. The need for exterior painting will be determined by the appearance and protective condition of the existing paint. When painting is needed, all products and procedures will be equal to, or exceed the requirements of the state, the American Water Works Association, and the Steel Structures Painting Council as to surface preparation, coating materials, and disinfections. A lock, provided by the Owner will be installed on the roof hatch of the tanks to prevent any unauthorized entry to the water tanks. The keys to the tank will be retained by the Owner.

- e. **Emergency:** The Company will provide emergency services, when needed, to perform all repairs covered under this contract. Reasonable travel time must be allowed for the repair unit to reach the tank site. The Company will furnish temporary use of relief valves, if needed, to install in the water system so the Owner can pump direct to maintain water pressure while the tank is being serviced. The owner has the option to purchase relief valves for long-term use.
- f. **Exclusions:** This Agreement does NOT include the cost for and/or liability on the part of the Company for: (1) containment of the tanks at any time during the term of the Agreement; (2) disposal of any hazardous waste materials; (3) resolution of operational problems or structural damage due to cold weather, acts of terrorism or other "Acts of God"; (4) repair of structural damage due to antenna installations or other attachments for which the tank was not originally designed; (5) riser pipes that are smaller than 36 inches in diameter; (6) insulation, frost jackets, and fill lines; (7) negligent or intentional acts of Owner's employees, invitees, agents, or contractors or subcontractor or any person or entity under Owner's control; (8) resolution of operational problems or repair of structural damage or site damage caused by physical conditions below the surface of the ground; (9) damages, whether foreseen or unforeseen, caused by the Owner's use of pressure relief valves and site conditions; (10) repairs to the foundation of the tank; (11) payment of prevailing wages at any time throughout the duration of this agreement; (12) negligent acts of Owner's employees, agents or contractors in the operation of the water system.

2. **INSURANCE:**

The Company will furnish current certificates of insurance coverage to the Owner at the time any work is performed. Company insurers shall waive subrogation

3. **TERM:**

This agreement shall be for one year and automatically renews annually on the contract execution date. The Owner shall have the right to continue this contract for an indefinite period of time providing the annual fee is paid in accordance with the terms of payment. This agreement is subject to termination by the Owner upon written notice of intent to terminate which must be received by the Company ninety (90) days prior to the effective date of termination. Notice of Termination is to be delivered by certified mail to Maguire Iron Inc. PO Box 1446 Sioux Falls, SD 57101, and signed by the Mayor, City Manager or authorized agent. The owner will be responsible to the Company for the cost (at current market rates) of any work that has been performed prior to termination. Any disputes arising out of such termination are subject to the remedies section hereinafter set out.

4. **COST/PAYMENT TERM:**

The cost of the program is detailed in the **attached Schedule A**. Each year thereafter, the annual fee will be adjusted to reflect the current cost of service. The adjustments will be limited to a five percent annual increase. **Payment Options:** ___quarterly, ___semi-annually, or X

annual payments are due the first business day of selected payment period. Net 30 days from acceptance and invoicing, plus applicable sales, use, excise, transfer or similar taxes required by law. A service charge of 1.5% per month (18% per annum) will be charged on past due accounts.

5. TANK MODIFICATION:

The Company's fees are based upon the existing structure and components of the tanks. *Any modifications to the tanks, including but not limited to antenna installations, shall be approved by the Company, prior to installation or modification and may result in an increase to the annual fee.*

6. CHANGES IN LAW:

The Owner agrees that future mandated environmental, health, safety, or labor requirements as well as changes in site conditions at the tank site which cause an increase in the cost of tank maintenance will be just cause for modification of Section 4 of this Agreement. Modification of this Agreement will reasonably reflect the increased cost of the service with a newly negotiated annual fee.

7. ASSIGNMENT:

The Owner may not assign or otherwise transfer all or any of its interest under this Agreement without the prior written consent of the Company. If the Company agrees to the assignment, the Owner shall remain responsible under this Agreement, until its assignee assumes in full and in writing all of the obligations of the Owner under this Agreement.

8. INDEMNIFICATION:

THE COMPANY AGREES TO INDEMNIFY THE OWNER AND HOLD THE OWNER HARMLESS FROM ANY AND ALL CLAIMS, DEMANDS, ACTIONS, DAMAGES, LIABILITY, AND EXPENSE IN CONNECTION WITH LOSS OF LIFE, PERSONAL INJURY, AND/OR DAMAGE TO PROPERTY CAUSED BY ANY ACT, OMISSION, OF THE COMPANY OR ITS SUBCONTRACTORS, AGENTS, OR EMPLOYEES. THE OWNER AGREES TO INDEMNIFY THE COMPANY AND HOLD THE COMPANY HARMLESS FROM ANY AND ALL CLAIMS, DEMANDS, ACTIONS, DAMAGES, LIABILITY, AND EXPENSE IN CONNECTION WITH LOSS OF LIFE, PERSONAL INJURY, AND/OR DAMAGE TO PROPERTY CAUSED BY ACT OR OMISSION OF THE OWNER OR ITS CONTRACTORS, AGENTS, OR EMPLOYEES. THE INDEMNIFICATION PROVIDED IN THIS PARAGRAPH DOES NOT AFFECT THE COMPANY'S LIMITATIONS OF LIABILITY SET FORTH IN OTHER PARAGRAPHS OF THIS AGREEMENT.

9. REMEDIES

Company or Owner shall in no event be liable for consequential, incidental or punitive damages whatsoever.

10. MISCELLANEOUS:

No modifications, amendments, or alterations of this Agreement may be made except in writing signed by all the parties to this Agreement. No failure or delay on the part of any party hereto in exercising any power or right hereunder shall operate as a waiver thereof. The parties expressly warrant that the individuals who sign below are authorized to bind them without further action.

11. ENTIRE AGREEMENT:

This Agreement constitute the entire agreement of the parties and supersedes all prior communications, understandings, and agreement relating to the subject matter hereof, whether oral or written.

12. SEVERABILITY:

If any term of this Agreement is to any extent invalid, illegal, or incapable of being enforced, such term shall be excluded to the extent of such invalidity, illegality, or unenforceability; all other terms hereof shall remain in full force and effect.

13. VISUAL INSPECITON DISCLAIMER

This Contract is based upon a visual inspection of the Tank. The Owner and the Company hereby acknowledge and agree that a visual inspection is intended to assess the condition of the Tank for all patent defects. If latent defects are identified once the tank has been drained for repairs, the Owner agrees and acknowledges that the Company shall not be responsible to repair the latent defects unless the Owner and the Company renegotiate the annual fees. The definition of a "latent defect" shall be any defect of the Tank which is not easily discovered (e.g., corrosion of the floor plates, damage to the roof of the tank which is not clearly visible during the visual inspection, etc.).

Compliance with all Codes, Permitting and Licensing Requirements. The successful contractor shall comply with all national, state and local standards, codes and ordinances as well as any other authorities that have jurisdiction pertaining to equipment and materials used and their application. None of the terms or provisions of the specification shall be construed as waiving any rules, regulations or requirements of these authorities. The successful bidder shall be responsible for obtaining all necessary permits, certificates and/or licenses to fulfill contractual obligations.

Liability and Indemnity of City. Any provision of the Contract is void and unenforceable if it: (1) limits or releases either party from liability that would exist by law in the absence of the provision; (2) creates liability for either party that would not exist by law in the absence of the provision; or (3) waives or limits either party's rights, defenses, remedies, or immunities that would exist by law in the absence of the provision.. (Section 5, Article XI, Texas Constitution)

Indemnity and Independent Contractor Status of Contractor. Contractor shall indemnify, save harmless and defend the City, its officers, agents, and employees from and against any and all suits, actions, legal proceedings, claims, demands, damages, costs, expenses, attorney's fees and any and all other costs or fees (whether grounded in Constitutional law, Tort, Contract, or Property Law, or raised pursuant to local, state or federal statutory provision), arising out of the performance of the resulting agreement and/or arising out of a

willful or negligent act or omission of the contractor, its officers, agents, and employees. It is understood and agreed that the contractor and any employee or sub-contractor of contractor shall not be considered an employee of the City. The contractor shall not be within protection or coverage of the City's workers' compensation insurance, health insurance, liability insurance or any other insurance that the City from time to time may have in force and effect. City specifically reserves the right to reject any and all contractor's employees, representatives or sub-contractors and/or their employees for any cause, should the presence of any such person on City property or their interaction with City employees be found not in the best interest of the City, harassing, or is found to interfere with the effective and efficient operation of the City's workplace.

Liens. Contractor agrees to and shall indemnify and save harmless the City against any and all liens and encumbrances for all labor, goods and services which may be provided under the resulting agreement. At the City's request the contractor or subcontractors shall provide a proper release of all liens, or satisfactory evidence of freedom from liens shall be delivered to the City.

Tax Exemption. The City is not liable to Vendor for any federal, state, or local taxes for which the City is not liable by law, including state and local sales and use taxes (Section 151.309 and Title 3, Texas Tax Code) and federal excise tax (Subtitle D of the Internal Revenue Code). Accordingly, those taxes may not be added to any item. Texas limited sales tax exemption certificates will be furnished upon request. Vendors shall not charge for said taxes. If billed, the City will remit payment less sales tax.

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Sovereign Immunity. Any provision of the Contract that seeks to waive the City's immunity from suit and/or immunity from liability is void unless agreed to by specific acknowledgement of the provision within the contract.

Governing Law and Venue. Texas law governs this Contract and any lawsuit on this Contract must be filed in a court that has jurisdiction in Travis County, Texas.

Certificate of Interested Parties (TEC Form 1295). For contracts needing City Council approval, the City may not accept or enter into a contract until it has received from the Contractor a completed, and signed TEC Form 1295 complete with a certificate number assigned by the Texas Ethics Commission ("TEC"), pursuant to Texas Government Code § 2252.908 and the rules promulgated thereunder by the TEC. The Contractor understands that failure to provide said form complete with a certificate number assigned by the TEC may prohibit the City from entering the Contract.

Pursuant to the rules prescribed by the TEC, the TEC Form 1295 must be completed online through the TEC's website, assigned a certificate number, printed, signed and notarized, and provided to the City. The TEC Form 1295 may accompany the bid or may be submitted separately, but must be provided to the City prior to the award of the contract. Neither the City nor its consultants have the ability to verify the information included in a TEC Form 1295, and neither have an obligation nor undertake responsibility for advising any bidder with respect to

the proper completion of the TEC Form 1295.

Texas Government Code Mandatory Provisions. The City may not enter into a contract with a company for goods and services unless the contract contains a written verification from the company that it; (i) does not boycott Israel; (ii) will not boycott Israel during the term of the contract; (iii) does not boycott energy companies; (iv) will not boycott energy companies during the term of the contract; (v) does not have a practice, policy, guidance or directive that discriminates against a firearm entity or firearm trade association; and (vi) will not discriminate during the term of the contract against a firearm entity or firearm trade association (Texas Government Code, Chapter 2271.002; 2274.002).

Company hereby verifies that it does not boycott Israel, and agrees that, during the term of this agreement, will not boycott Israel as this term is defined in the Texas Government Code, Section 808.001, as amended. Company hereby verifies that it does not boycott energy companies, and agrees that, during the term of this agreement, will not boycott energy companies as this term is defined in Texas Government Code, Section 809.001, as amended. Company hereby verifies that it does not have a practice, policy, guidance or directive that discriminates against a firearm entity or firearm trade association, and agrees that, during the term of this agreement, will not discriminate against a firearm entity or firearm trade association as those terms are defined in Texas Government Code, Section 2274.001, as amended.

Company hereby certifies that it is not a company identified under Texas Government Code, Section 2252.152 as a company engaged in business with Iran, Sudan, or Foreign Terrorist Organizations.

Owner: _____

MAGUIRE IRON, INC.

By: _____
(Name) (Title)

By: _____
(Name) (Title)

By: Roxana Bagwell 09/27/2024
(Authorized Agent) (Date)

Date Accepted: _____

Upon acceptance, please provide two (2) signatures and date the agreement.

WITNESSETH:

Contractor agrees to make the following repairs and improvements on the Owner's water supply tank, and to furnish the necessary equipment, labor, material, as well as Workmen's Compensation Insurance and Contractor's Liability Insurance, and to do the work hereinafter stated in a good and workmanlike manner.

Exterior Renovation

- Contractor will pressure wash the complete exterior (100%) in accordance with SSPC SP No. 12.
- Contractor will SSPC SP No. 2 / 3 Hand tool clean / Power tool clean all rusted areas.
- Contractor will apply one (1) spot coat of epoxy to the rusted and abraded areas. Coatings shall be applied to manufacturer's recommended film thickness (2.0 - 4.0 mils DFT).
- Contractor will apply one (1) finish coat of acrylic to the complete exterior (100%) shall be applied to the manufacturer's recommendations (2.0 - 3.0 mils DFT).

Interior Wet Renovation

- Contractor will abrasive blast clean the complete interior (100%) to an SSPC - SP No. 10 "Near White Metal". After abrasive blast cleaning, all surfaces shall be cleaned of any dust residue or foreign debris.
- Contractor will apply one (1) prime coat of NSF-61 approved zinc rich primer to the complete interior (100%) shall be applied to manufacturer's recommended film thickness (2.5 - 3.5 mils DFT).
- Contractor will apply one (1) additional coat of NSF-61 approved epoxy to be applied by brush and roller to all edges, weld seams and sharp angles.
- Contractor will apply one (1) intermediate coat of NSF-61 approved epoxy to the complete interior (100%) shall be applied to the manufacturer's recommendations (4.0 - 6.0 mils DFT).
- Contractor will apply one (1) finish coat of NSF-61 approved epoxy to the complete interior (100%) shall be applied to the manufacturer's recommendations (4.0 - 6.0 mils DFT).

Disinfection Method

- Contractor will disinfect the interior of the tank as per AWWA Standard C652-02, Chlorine Method #3 prior to the owner filling the tank.
- Water samples and testing is the responsibility of the owner.

Frost Proof Vent

- Contractor will remove existing vent and furnish and install a new state compliant 24 inch fail safe steel vent.

Roof Acces

- Contractor will remove existing roof manway and install new 30 inch square manway

Misc Steel Repair

- Remove Interior Ladder
- Remove Level Indicator System

Visual Inspection

- Contractor will do a complete inspection along with photos of the complete interior and exterior of the water tower.
- Contractor will work up a report of the findings during the Inspection of the city's water tower and send a detailed report that will include current condition, and future recommendations as applicable. Inspection to cover, Coatings, Sanitary, Security, Safety and Structural conditions.

Cleanout

- Contractor will furnish tools, labor, and materials as well as necessary insurance to perform the work in a good and workmanlike manner.
- Contractor will furnish a pressure relief valve / blow off valve for use by the Owner if needed at no charge.
- Contractor will wash out heavy sediment once the tank is emptied by the owner.
- Contractor will power wash the bottom 6' of the interior wet area of the tank after heavy sediment has been removed from the tank. Some staining may remain.
- Should any emergency repair or renovation be necessary, cost and details to be submitted. No extra work will be done without the owner's authorization.
- Contractor will do a complete inspection along with photos of the complete interior and exterior of the water tank.



Schedule A: Cost Schedule

Fair Oaks Ranch, TX - City of Plant #2 – 150KG GST #1		
Year	Service	Annual Spend
2025	Clean Out / ROV	\$20,508.00
2026	Visual Inspection	\$20,508.00
2027	Visual Inspection	\$20,508.00
2028	Paint - Exterior Paint - Interior Wet Steelwork Repairs	\$20,508.00
2029	Visual Inspection	\$20,508.00
2030	Visual Inspection	\$20,508.00
2031	Visual Inspection	\$20,508.00
2032	Clean Out / ROV	\$20,508.00
2032	Visual Inspection	\$20,508.00
2033	Visual Inspection	\$20,508.00



FULL-SERVICE MAINTENANCE PLAN



Fair Oaks Ranch, TX - City of

Plant #2, 4000KG GST #2

Fair Oaks Ranch, TX

October 31, 2024

MAGUIREWATER.COM

FULL-SERVICE MAINTENANCE PLAN CONTRACT

THIS AGREEMENT is made this 31 day of October, 2024, by and between Fair Oaks Ranch, TX - City of, hereinafter referred to in this Agreement as "Owner", and Maguire Iron, Inc. of Sioux Falls, SD, hereinafter referred to in this Agreement as "the Company".

This Agreement along with all incorporated documents referenced herein shall set forth the full terms and conditions agreed to between the parties in reference to the inspection, maintenance, and rehabilitation of the Plant #2 – 400KG GST #2 Water Tower(s) by the Company as outlined in **Schedule A**.

1. SCOPE:

The Owner agrees to employ the Company to maintain its water storage tanks in accordance with this Agreement. This Agreement binds the Company to responsibility for the care and maintenance of the above described water storage tanks. Care and maintenance shall include the following:

- a. **Inspection:** The Company will annually inspect and service the tanks beginning in the year of 2025 as per the schedule with visual inspections and cleanout inspections. If any significant repair or touch up is observed we will schedule a time for the owner to drain the tank to make necessary repairs.
- b. **Drainage:** When a cleanout/inspection is done, the tanks will be completely drained and cleaned to remove and properly dispose of all sediment and other accumulations that might be harmful to the tank or its contents (not including staining). This cleaning will use high-pressure equipment. Any necessary touch up will be done at time of cleaning to extend coating life.
- c. **Disinfection:** After cleaning is completed, the interior will be inspected and disinfected by the Company prior to returning to service. Sampling and testing will be the responsibility of the Owner.
- d. **Painting:** The Company will clean and repaint the interior and/or exterior of the tanks at such time as painting is needed, but at a minimum in accordance with the schedule mutually agreed upon by the Owner and the Company, unless otherwise requested and extended by the Owner in writing. The need for interior painting will be determined by the thickness of the existing liner and its protective condition. The need for exterior painting will be determined by the appearance and protective condition of the existing paint. When painting is needed, all products and procedures will be equal to, or exceed the requirements of the state, the American Water Works Association, and the Steel Structures Painting Council as to surface preparation, coating materials, and disinfections. A lock, provided by the Owner will be installed on the roof hatch of the tanks to prevent any unauthorized entry to the water tanks. The keys to the tank will be retained by the Owner.

- e. **Emergency:** The Company will provide emergency services, when needed, to perform all repairs covered under this contract. Reasonable travel time must be allowed for the repair unit to reach the tank site. The Company will furnish temporary use of relief valves, if needed, to install in the water system so the Owner can pump direct to maintain water pressure while the tank is being serviced. The owner has the option to purchase relief valves for long-term use.
- f. **Exclusions:** This Agreement does NOT include the cost for and/or liability on the part of the Company for: (1) containment of the tanks at any time during the term of the Agreement; (2) disposal of any hazardous waste materials; (3) resolution of operational problems or structural damage due to cold weather, acts of terrorism or other "Acts of God"; (4) repair of structural damage due to antenna installations or other attachments for which the tank was not originally designed; (5) riser pipes that are smaller than 36 inches in diameter; (6) insulation, frost jackets, and fill lines; (7) negligent or intentional acts of Owner's employees, invitees, agents, or contractors or subcontractor or any person or entity under Owner's control; (8) resolution of operational problems or repair of structural damage or site damage caused by physical conditions below the surface of the ground; (9) damages, whether foreseen or unforeseen, caused by the Owner's use of pressure relief valves and site conditions; (10) repairs to the foundation of the tank; (11) payment of prevailing wages at any time throughout the duration of this agreement; (12) negligent acts of Owner's employees, agents or contractors in the operation of the water system.

2. **INSURANCE:**

The Company will furnish current certificates of insurance coverage to the Owner at the time any work is performed. Company insurers shall waive subrogation

3. **TERM:**

This agreement shall be for one year and automatically renews annually on the contract execution date. The Owner shall have the right to continue this contract for an indefinite period of time providing the annual fee is paid in accordance with the terms of payment. This agreement is subject to termination by the Owner upon written notice of intent to terminate which must be received by the Company ninety (90) days prior to the effective date of termination. Notice of Termination is to be delivered by certified mail to Maguire Iron Inc. PO Box 1446 Sioux Falls, SD 57101, and signed by the Mayor, City Manager or authorized agent. The owner will be responsible to the Company for the cost (at current market rates) of any work that has been performed prior to termination. Any disputes arising out of such termination are subject to the remedies section hereinafter set out.

4. **COST/PAYMENT TERM:**

The cost of the program is detailed in the **attached Schedule A**. Each year thereafter, the annual fee will be adjusted to reflect the current cost of service. The adjustments will be limited to a five percent annual increase. **Payment Options:** ___quarterly, ___semi-annually, or X

annual payments are due the first business day of selected payment period. Net 30 days from acceptance and invoicing, plus applicable sales, use, excise, transfer or similar taxes required by law. A service charge of 1.5% per month (18% per annum) will be charged on past due accounts.

5. TANK MODIFICATION:

The Company's fees are based upon the existing structure and components of the tanks. *Any modifications to the tanks, including but not limited to antenna installations, shall be approved by the Company, prior to installation or modification and may result in an increase to the annual fee.*

6. CHANGES IN LAW:

The Owner agrees that future mandated environmental, health, safety, or labor requirements as well as changes in site conditions at the tank site which cause an increase in the cost of tank maintenance will be just cause for modification of Section 4 of this Agreement. Modification of this Agreement will reasonably reflect the increased cost of the service with a newly negotiated annual fee.

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9. REMEDIES

Company or Owner shall in no event be liable for consequential, incidental or punitive damages whatsoever.

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No modifications, amendments, or alterations of this Agreement may be made except in writing signed by all the parties to this Agreement. No failure or delay on the part of any party hereto in exercising any power or right hereunder shall operate as a waiver thereof. The parties expressly warrant that the individuals who sign below are authorized to bind them without further action.

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12. SEVERABILITY:

If any term of this Agreement is to any extent invalid, illegal, or incapable of being enforced, such term shall be excluded to the extent of such invalidity, illegality, or unenforceability; all other terms hereof shall remain in full force and effect.

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Owner: _____

MAGUIRE IRON, INC.

By: _____
(Name) (Title)

By: _____
(Name) (Title)

By: Roxana Bagwell 09/27/2024
(Authorized Agent) (Date)

Date Accepted: _____

Upon acceptance, please provide two (2) signatures and date the agreement.

WITNESSETH:

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- Contractor will pressure wash the complete exterior (100%) in accordance with SSPC SP No. 12.
- Contractor will SSPC SP No. 2 / 3 Hand tool clean / Power tool clean all rusted areas.
- Contractor will apply one (1) spot coat of epoxy to the rusted and abraded areas. Coatings shall be applied to manufacturer's recommended film thickness (2.0 - 4.0 mils DFT).
- Contractor will apply one (1) finish coat of acrylic to the complete exterior (100%) shall be applied to the manufacturer's recommendations (2.0 - 3.0 mils DFT).

Interior Wet Renovation

- Contractor will abrasive blast clean the complete interior (100%) to an SSPC - SP No. 10 "Near White Metal". After abrasive blast cleaning, all surfaces shall be cleaned of any dust residue or foreign debris.
- Contractor will apply one (1) prime coat of NSF-61 approved zinc rich primer to the complete interior (100%) shall be applied to manufacturer's recommended film thickness (2.5 - 3.5 mils DFT).
- Contractor will apply one (1) additional coat of NSF-61 approved epoxy to be applied by brush and roller to all edges, weld seams and sharp angles.
- Contractor will apply one (1) intermediate coat of NSF-61 approved epoxy to the complete interior (100%) shall be applied to the manufacturer's recommendations (4.0 - 6.0 mils DFT).
- Contractor will apply one (1) finish coat of NSF-61 approved epoxy to the complete interior (100%) shall be applied to the manufacturer's recommendations (4.0 - 6.0 mils DFT).

Disinfection Method

- Contractor will disinfect the interior of the tank as per AWWA Standard C652-02, Chlorine Method #3 prior to the owner filling the tank.
- Water samples and testing is the responsibility of the owner.

Frost Proof Vent

- Contractor will remove existing vent and furnish and install a new state compliant 24 inch fail safe steel vent.

Misc Steel Repair

- Remove Interior Ladder

Visual Inspection

- Contractor will do a complete inspection along with photos of the complete interior and exterior of the water tower.
- Contractor will work up a report of the findings during the Inspection of the city's water tower and send a detailed report that will include current condition, and future recommendations as applicable. Inspection to cover, Coatings, Sanitary, Security, Safety and Structural conditions.

Cleanout

- Contractor will furnish tools, labor, and materials as well as necessary insurance to perform the work in a good and workmanlike manner.
- Contractor will furnish a pressure relief valve / blow off valve for use by the Owner if needed at no charge.
- Contractor will wash out heavy sediment once the tank is emptied by the owner.
- Contractor will power wash the bottom 6' of the interior wet area of the tank after heavy sediment has been removed from the tank. Some staining may remain.
- Should any emergency repair or renovation be necessary, cost and details to be submitted. No extra work will be done without the owner's authorization.
- Contractor will do a complete inspection along with photos of the complete interior and exterior of the water tank.



Schedule A: Cost Schedule

Fair Oaks Ranch, TX - City of Plant #2 – 400KG GST #2		
Year	Service	Annual Spend
2025	Clean Out / ROV	\$26,504.00
2026	Visual Inspection	\$26,504.00
2027	Visual Inspection	\$26,504.00
2028	Visual Inspection	\$26,504.00
2029	Paint - Exterior Paint - Interior Wet Steelwork Repairs	\$26,504.00
2030	Visual Inspection	\$26,504.00
2031	Visual Inspection	\$26,504.00
2032	Visual Inspection	\$26,504.00
2032	Clean Out / ROV	\$26,504.00
2033	Visual Inspection	\$26,504.00



FULL-SERVICE MAINTENANCE PLAN



Fair Oaks Ranch, TX - City of
Plant #3, 150KG Wild Oak Hill Tank #1
Fair Oaks Ranch, TX

October 31, 2024

MAGUIREWATER.COM

FULL-SERVICE MAINTENANCE PLAN CONTRACT

THIS AGREEMENT is made this 31 day of October, 2024, by and between Fair Oaks Ranch, TX - City of, hereinafter referred to in this Agreement as "Owner", and Maguire Iron, Inc. of Sioux Falls, SD, hereinafter referred to in this Agreement as "the Company".

This Agreement along with all incorporated documents referenced herein shall set forth the full terms and conditions agreed to between the parties in reference to the inspection, maintenance, and rehabilitation of the Plant #3 –150KG GST Wild Oak Hill Water Tower(s) by the Company as outlined in **Schedule A**.

1. SCOPE:

The Owner agrees to employ the Company to maintain its water storage tanks in accordance with this Agreement. This Agreement binds the Company to responsibility for the care and maintenance of the above described water storage tanks. Care and maintenance shall include the following:

- a. **Inspection:** The Company will annually inspect and service the tanks beginning in the year of 2025 as per the schedule with visual inspections and cleanout inspections. If any significant repair or touch up is observed we will schedule a time for the owner to drain the tank to make necessary repairs.
- b. **Drainage:** When a cleanout/inspection is done, the tanks will be completely drained and cleaned to remove and properly dispose of all sediment and other accumulations that might be harmful to the tank or its contents (not including staining). This cleaning will use high-pressure equipment. Any necessary touch up will be done at time of cleaning to extend coating life.
- c. **Disinfection:** After cleaning is completed, the interior will be inspected and disinfected by the Company prior to returning to service. Sampling and testing will be the responsibility of the Owner.
- d. **Painting:** The Company will clean and repaint the interior and/or exterior of the tanks at such time as painting is needed, but at a minimum in accordance with the schedule mutually agreed upon by the Owner and the Company, unless otherwise requested and extended by the Owner in writing. The need for interior painting will be determined by the thickness of the existing liner and its protective condition. The need for exterior painting will be determined by the appearance and protective condition of the existing paint. When painting is needed, all products and procedures will be equal to, or exceed the requirements of the state, the American Water Works Association, and the Steel Structures Painting Council as to surface preparation, coating materials, and disinfections. A lock, provided by the Owner will be installed on the roof hatch of the tanks to prevent any unauthorized entry to the water tanks. The keys to the tank will be retained by the Owner.

- e. **Emergency:** The Company will provide emergency services, when needed, to perform all repairs covered under this contract. Reasonable travel time must be allowed for the repair unit to reach the tank site. The Company will furnish temporary use of relief valves, if needed, to install in the water system so the Owner can pump direct to maintain water pressure while the tank is being serviced. The owner has the option to purchase relief valves for long-term use.
- f. **Exclusions:** This Agreement does NOT include the cost for and/or liability on the part of the Company for: (1) containment of the tanks at any time during the term of the Agreement; (2) disposal of any hazardous waste materials; (3) resolution of operational problems or structural damage due to cold weather, acts of terrorism or other "Acts of God"; (4) repair of structural damage due to antenna installations or other attachments for which the tank was not originally designed; (5) riser pipes that are smaller than 36 inches in diameter; (6) insulation, frost jackets, and fill lines; (7) negligent or intentional acts of Owner's employees, invitees, agents, or contractors or subcontractor or any person or entity under Owner's control; (8) resolution of operational problems or repair of structural damage or site damage caused by physical conditions below the surface of the ground; (9) damages, whether foreseen or unforeseen, caused by the Owner's use of pressure relief valves and site conditions; (10) repairs to the foundation of the tank; (11) payment of prevailing wages at any time throughout the duration of this agreement; (12) negligent acts of Owner's employees, agents or contractors in the operation of the water system.

2. **INSURANCE:**

The Company will furnish current certificates of insurance coverage to the Owner at the time any work is performed. Company insurers shall waive subrogation

3. **TERM:**

This agreement shall be for one year and automatically renews annually on the contract execution date. The Owner shall have the right to continue this contract for an indefinite period of time providing the annual fee is paid in accordance with the terms of payment. This agreement is subject to termination by the Owner upon written notice of intent to terminate which must be received by the Company ninety (90) days prior to the effective date of termination. Notice of Termination is to be delivered by certified mail to Maguire Iron Inc. PO Box 1446 Sioux Falls, SD 57101, and signed by the Mayor, City Manager or authorized agent. The owner will be responsible to the Company for the cost (at current market rates) of any work that has been performed prior to termination. Any disputes arising out of such termination are subject to the remedies section hereinafter set out.

4. **COST/PAYMENT TERM:**

The cost of the program is detailed in the **attached Schedule A**. Each year thereafter, the annual fee will be adjusted to reflect the current cost of service. The adjustments will be limited to a five percent annual increase. **Payment Options:** ___quarterly, ___semi-annually, or X

annual payments are due the first business day of selected payment period. Net 30 days from acceptance and invoicing, plus applicable sales, use, excise, transfer or similar taxes required by law. A service charge of 1.5% per month (18% per annum) will be charged on past due accounts.

5. TANK MODIFICATION:

The Company's fees are based upon the existing structure and components of the tanks. *Any modifications to the tanks, including but not limited to antenna installations, shall be approved by the Company, prior to installation or modification and may result in an increase to the annual fee.*

6. CHANGES IN LAW:

The Owner agrees that future mandated environmental, health, safety, or labor requirements as well as changes in site conditions at the tank site which cause an increase in the cost of tank maintenance will be just cause for modification of Section 4 of this Agreement. Modification of this Agreement will reasonably reflect the increased cost of the service with a newly negotiated annual fee.

7. ASSIGNMENT:

The Owner may not assign or otherwise transfer all or any of its interest under this Agreement without the prior written consent of the Company. If the Company agrees to the assignment, the Owner shall remain responsible under this Agreement, until its assignee assumes in full and in writing all of the obligations of the Owner under this Agreement.

8. INDEMNIFICATION:

THE COMPANY AGREES TO INDEMNIFY THE OWNER AND HOLD THE OWNER HARMLESS FROM ANY AND ALL CLAIMS, DEMANDS, ACTIONS, DAMAGES, LIABILITY, AND EXPENSE IN CONNECTION WITH LOSS OF LIFE, PERSONAL INJURY, AND/OR DAMAGE TO PROPERTY CAUSED BY ANY ACT, OMISSION, OF THE COMPANY OR ITS SUBCONTRACTORS, AGENTS, OR EMPLOYEES. THE OWNER AGREES TO INDEMNIFY THE COMPANY AND HOLD THE COMPANY HARMLESS FROM ANY AND ALL CLAIMS, DEMANDS, ACTIONS, DAMAGES, LIABILITY, AND EXPENSE IN CONNECTION WITH LOSS OF LIFE, PERSONAL INJURY, AND/OR DAMAGE TO PROPERTY CAUSED BY ACT OR OMISSION OF THE OWNER OR ITS CONTRACTORS, AGENTS, OR EMPLOYEES. THE INDEMNIFICATION PROVIDED IN THIS PARAGRAPH DOES NOT AFFECT THE COMPANY'S LIMITATIONS OF LIABILITY SET FORTH IN OTHER PARAGRAPHS OF THIS AGREEMENT.

9. REMEDIES

Company or Owner shall in no event be liable for consequential, incidental or punitive damages whatsoever.

10. MISCELLANEOUS:

No modifications, amendments, or alterations of this Agreement may be made except in writing signed by all the parties to this Agreement. No failure or delay on the part of any party hereto in exercising any power or right hereunder shall operate as a waiver thereof. The parties expressly warrant that the individuals who sign below are authorized to bind them without further action.

11. ENTIRE AGREEMENT:

This Agreement constitute the entire agreement of the parties and supersedes all prior communications, understandings, and agreement relating to the subject matter hereof, whether oral or written.

12. SEVERABILITY:

If any term of this Agreement is to any extent invalid, illegal, or incapable of being enforced, such term shall be excluded to the extent of such invalidity, illegality, or unenforceability; all other terms hereof shall remain in full force and effect.

13. VISUAL INSPECITON DISCLAIMER

This Contract is based upon a visual inspection of the Tank. The Owner and the Company hereby acknowledge and agree that a visual inspection is intended to assess the condition of the Tank for all patent defects. If latent defects are identified once the tank has been drained for repairs, the Owner agrees and acknowledges that the Company shall not be responsible to repair the latent defects unless the Owner and the Company renegotiate the annual fees. The definition of a "latent defect" shall be any defect of the Tank which is not easily discovered (e.g., corrosion of the floor plates, damage to the roof of the tank which is not clearly visible during the visual inspection, etc.).

Compliance with all Codes, Permitting and Licensing Requirements. The successful contractor shall comply with all national, state and local standards, codes and ordinances as well as any other authorities that have jurisdiction pertaining to equipment and materials used and their application. None of the terms or provisions of the specification shall be construed as waiving any rules, regulations or requirements of these authorities. The successful bidder shall be responsible for obtaining all necessary permits, certificates and/or licenses to fulfill contractual obligations.

Liability and Indemnity of City. Any provision of the Contract is void and unenforceable if it: (1) limits or releases either party from liability that would exist by law in the absence of the provision; (2) creates liability for either party that would not exist by law in the absence of the provision; or (3) waives or limits either party's rights, defenses, remedies, or immunities that would exist by law in the absence of the provision.. (Section 5, Article XI, Texas Constitution)

Indemnity and Independent Contractor Status of Contractor. Contractor shall indemnify, save harmless and defend the City, its officers, agents, and employees from and against any and all suits, actions, legal proceedings, claims, demands, damages, costs, expenses, attorney's fees and any and all other costs or fees (whether grounded in Constitutional law, Tort, Contract, or Property Law, or raised pursuant to local, state or federal statutory provision), arising out of the performance of the resulting agreement and/or arising out of a

willful or negligent act or omission of the contractor, its officers, agents, and employees. It is understood and agreed that the contractor and any employee or sub-contractor of contractor shall not be considered an employee of the City. The contractor shall not be within protection or coverage of the City's workers' compensation insurance, health insurance, liability insurance or any other insurance that the City from time to time may have in force and effect. City specifically reserves the right to reject any and all contractor's employees, representatives or sub-contractors and/or their employees for any cause, should the presence of any such person on City property or their interaction with City employees be found not in the best interest of the City, harassing, or is found to interfere with the effective and efficient operation of the City's workplace.

Liens. Contractor agrees to and shall indemnify and save harmless the City against any and all liens and encumbrances for all labor, goods and services which may be provided under the resulting agreement. At the City's request the contractor or subcontractors shall provide a proper release of all liens, or satisfactory evidence of freedom from liens shall be delivered to the City.

Tax Exemption. The City is not liable to Vendor for any federal, state, or local taxes for which the City is not liable by law, including state and local sales and use taxes (Section 151.309 and Title 3, Texas Tax Code) and federal excise tax (Subtitle D of the Internal Revenue Code). Accordingly, those taxes may not be added to any item. Texas limited sales tax exemption certificates will be furnished upon request. Vendors shall not charge for said taxes. If billed, the City will remit payment less sales tax.

Contractual Limitations Period. Any provision of the Contract that establishes a limitations period that does not run against the City by law or that is shorter than two years is void. (Sections 16.061 and 16.070, Texas Civil Practice and Remedies Code)

Sovereign Immunity. Any provision of the Contract that seeks to waive the City's immunity from suit and/or immunity from liability is void unless agreed to by specific acknowledgement of the provision within the contract.

Governing Law and Venue. Texas law governs this Contract and any lawsuit on this Contract must be filed in a court that has jurisdiction in Travis County, Texas.

Certificate of Interested Parties (TEC Form 1295). For contracts needing City Council approval, the City may not accept or enter into a contract until it has received from the Contractor a completed, and signed TEC Form 1295 complete with a certificate number assigned by the Texas Ethics Commission ("TEC"), pursuant to Texas Government Code § 2252.908 and the rules promulgated thereunder by the TEC. The Contractor understands that failure to provide said form complete with a certificate number assigned by the TEC may prohibit the City from entering the Contract.

Pursuant to the rules prescribed by the TEC, the TEC Form 1295 must be completed online through the TEC's website, assigned a certificate number, printed, signed and notarized, and provided to the City. The TEC Form 1295 may accompany the bid or may be submitted separately, but must be provided to the City prior to the award of the contract. Neither the City nor its consultants have the ability to verify the information included in a TEC Form 1295, and neither have an obligation nor undertake responsibility for advising any bidder with respect to

WITNESSETH:

Contractor agrees to make the following repairs and improvements on the Owner's water supply tank, and to furnish the necessary equipment, labor, material, as well as Workmen's Compensation Insurance and Contractor's Liability Insurance, and to do the work hereinafter stated in a good and workmanlike manner.

Exterior Renovation

- Contractor will pressure wash the complete exterior (100%) in accordance with SSPC SP No. 12.
- Contractor will SSPC SP No. 2 / 3 Hand tool clean / Power tool clean all rusted areas.
- Contractor will apply one (1) spot coat of epoxy to the rusted and abraded areas. Coatings shall be applied to manufacturer's recommended film thickness (2.0 - 4.0 mils DFT).
- Contractor will apply one (1) finish coat of acrylic to the complete exterior (100%) shall be applied to the manufacturer's recommendations (2.0 - 3.0 mils DFT).

Interior Wet Renovation

- Contractor will abrasive blast clean the complete interior (100%) to an SSPC - SP No. 10 "Near White Metal". After abrasive blast cleaning, all surfaces shall be cleaned of any dust residue or foreign debris.
- Contractor will apply one (1) prime coat of NSF-61 approved zinc rich primer to the complete interior (100%) shall be applied to manufacturer's recommended film thickness (2.5 - 3.5 mils DFT).
- Contractor will apply one (1) additional coat of NSF-61 approved epoxy to be applied by brush and roller to all edges, weld seams and sharp angles.
- Contractor will apply one (1) intermediate coat of NSF-61 approved epoxy to the complete interior (100%) shall be applied to the manufacturer's recommendations (4.0 - 6.0 mils DFT).
- Contractor will apply one (1) finish coat of NSF-61 approved epoxy to the complete interior (100%) shall be applied to the manufacturer's recommendations (4.0 - 6.0 mils DFT).

Disinfection Method

- Contractor will disinfect the interior of the tank as per AWWA Standard C652-02, Chlorine Method #3 prior to the owner filling the tank.
- Water samples and testing is the responsibility of the owner.

Frost Proof Vent

- Contractor will remove existing vent and furnish and install a new state compliant 24 inch fail safe steel vent.

Misc Steel Repair

- Install Anti-Climb Gate on Existing Ladder Cage

Visual Inspection

- Contractor will do a complete inspection along with photos of the complete interior and exterior of the water tower.
- Contractor will work up a report of the findings during the Inspection of the city's water tower and send a detailed report that will include current condition, and future recommendations as applicable. Inspection to cover, Coatings, Sanitary, Security, Safety and Structural conditions.

Cleanout

- Contractor will furnish tools, labor, and materials as well as necessary insurance to perform the work in a good and workmanlike manner.
- Contractor will furnish a pressure relief valve / blow off valve for use by the Owner if needed at no charge.
- Contractor will wash out heavy sediment once the tank is emptied by the owner.
- Contractor will power wash the bottom 6' of the interior wet area of the tank after heavy sediment has been removed from the tank. Some staining may remain.
- Should any emergency repair or renovation be necessary, cost and details to be submitted. No extra work will be done without the owner's authorization.
- Contractor will do a complete inspection along with photos of the complete interior and exterior of the water tank.



Schedule A: Cost Schedule

Fair Oaks Ranch, TX - City of Plant #3 –150KG GST Wild Oak Hill		
Year	Service	Annual Spend
2025	Clean Out / ROV	\$19,518.00
2026	Visual Inspection	\$19,518.00
2027	Visual Inspection	\$19,518.00
2028	Paint - Exterior Paint - Interior Wet Steelwork Repairs	\$19,518.00
2029	Visual Inspection	\$19,518.00
2030	Visual Inspection	\$19,518.00
2031	Visual Inspection	\$19,518.00
2032	Clean Out / ROV	\$19,518.00
2032	Visual Inspection	\$19,518.00
2033	Visual Inspection	\$19,518.00



FULL-SERVICE MAINTENANCE PLAN



Fair Oaks Ranch, TX - City of

Plant #3, 350MG Wild Oak Hill

Fair Oaks Ranch, TX

October 31, 2024

MAGUIREWATER.COM

FULL-SERVICE MAINTENANCE PLAN CONTRACT

THIS AGREEMENT is made this 31 day of October, 2024, by and between Fair Oaks Ranch, TX - City of, hereinafter referred to in this Agreement as "Owner", and Maguire Iron, Inc. of Sioux Falls, SD, hereinafter referred to in this Agreement as "the Company".

This Agreement along with all incorporated documents referenced herein shall set forth the full terms and conditions agreed to between the parties in reference to the inspection, maintenance, and rehabilitation of the Plant #3 –350KG GST Wild Oak Hill Water Tower(s) by the Company as outlined in **Schedule A**.

1. SCOPE:

The Owner agrees to employ the Company to maintain its water storage tanks in accordance with this Agreement. This Agreement binds the Company to responsibility for the care and maintenance of the above described water storage tanks. Care and maintenance shall include the following:

- a. **Inspection:** The Company will annually inspect and service the tanks beginning in the year of 2025 as per the schedule with visual inspections and cleanout inspections. If any significant repair or touch up is observed we will schedule a time for the owner to drain the tank to make necessary repairs.
- b. **Drainage:** When a cleanout/inspection is done, the tanks will be completely drained and cleaned to remove and properly dispose of all sediment and other accumulations that might be harmful to the tank or its contents (not including staining). This cleaning will use high-pressure equipment. Any necessary touch up will be done at time of cleaning to extend coating life.
- c. **Disinfection:** After cleaning is completed, the interior will be inspected and disinfected by the Company prior to returning to service. Sampling and testing will be the responsibility of the Owner.
- d. **Painting:** The Company will clean and repaint the interior and/or exterior of the tanks at such time as painting is needed, but at a minimum in accordance with the schedule mutually agreed upon by the Owner and the Company, unless otherwise requested and extended by the Owner in writing. The need for interior painting will be determined by the thickness of the existing liner and its protective condition. The need for exterior painting will be determined by the appearance and protective condition of the existing paint. When painting is needed, all products and procedures will be equal to, or exceed the requirements of the state, the American Water Works Association, and the Steel Structures Painting Council as to surface preparation, coating materials, and disinfections. A lock, provided by the Owner will be installed on the roof hatch of the tanks to prevent any unauthorized entry to the water tanks. The keys to the tank will be retained by the Owner.

- e. **Emergency:** The Company will provide emergency services, when needed, to perform all repairs covered under this contract. Reasonable travel time must be allowed for the repair unit to reach the tank site. The Company will furnish temporary use of relief valves, if needed, to install in the water system so the Owner can pump direct to maintain water pressure while the tank is being serviced. The owner has the option to purchase relief valves for long-term use.
- f. **Exclusions:** This Agreement does NOT include the cost for and/or liability on the part of the Company for: (1) containment of the tanks at any time during the term of the Agreement; (2) disposal of any hazardous waste materials; (3) resolution of operational problems or structural damage due to cold weather, acts of terrorism or other "Acts of God"; (4) repair of structural damage due to antenna installations or other attachments for which the tank was not originally designed; (5) riser pipes that are smaller than 36 inches in diameter; (6) insulation, frost jackets, and fill lines; (7) negligent or intentional acts of Owner's employees, invitees, agents, or contractors or subcontractor or any person or entity under Owner's control; (8) resolution of operational problems or repair of structural damage or site damage caused by physical conditions below the surface of the ground; (9) damages, whether foreseen or unforeseen, caused by the Owner's use of pressure relief valves and site conditions; (10) repairs to the foundation of the tank; (11) payment of prevailing wages at any time throughout the duration of this agreement; (12) negligent acts of Owner's employees, agents or contractors in the operation of the water system.

2. **INSURANCE:**

The Company will furnish current certificates of insurance coverage to the Owner at the time any work is performed. Company insurers shall waive subrogation

3. **TERM:**

This agreement shall be for one year and automatically renews annually on the contract execution date. The Owner shall have the right to continue this contract for an indefinite period of time providing the annual fee is paid in accordance with the terms of payment. This agreement is subject to termination by the Owner upon written notice of intent to terminate which must be received by the Company ninety (90) days prior to the effective date of termination. Notice of Termination is to be delivered by certified mail to Maguire Iron Inc. PO Box 1446 Sioux Falls, SD 57101, and signed by the Mayor, City Manager or authorized agent. The owner will be responsible to the Company for the cost (at current market rates) of any work that has been performed prior to termination. Any disputes arising out of such termination are subject to the remedies section hereinafter set out.

4. **COST/PAYMENT TERM:**

The cost of the program is detailed in the **attached Schedule A**. Each year thereafter, the annual fee will be adjusted to reflect the current cost of service. The adjustments will be limited to a five percent annual increase. **Payment Options:** ___quarterly, ___semi-annually, or X

annual payments are due the first business day of selected payment period. Net 30 days from acceptance and invoicing, plus applicable sales, use, excise, transfer or similar taxes required by law. A service charge of 1.5% per month (18% per annum) will be charged on past due accounts.

5. TANK MODIFICATION:

The Company's fees are based upon the existing structure and components of the tanks. *Any modifications to the tanks, including but not limited to antenna installations, shall be approved by the Company, prior to installation or modification and may result in an increase to the annual fee.*

6. CHANGES IN LAW:

The Owner agrees that future mandated environmental, health, safety, or labor requirements as well as changes in site conditions at the tank site which cause an increase in the cost of tank maintenance will be just cause for modification of Section 4 of this Agreement. Modification of this Agreement will reasonably reflect the increased cost of the service with a newly negotiated annual fee.

7. ASSIGNMENT:

The Owner may not assign or otherwise transfer all or any of its interest under this Agreement without the prior written consent of the Company. If the Company agrees to the assignment, the Owner shall remain responsible under this Agreement, until its assignee assumes in full and in writing all of the obligations of the Owner under this Agreement.

8. INDEMNIFICATION:

THE COMPANY AGREES TO INDEMNIFY THE OWNER AND HOLD THE OWNER HARMLESS FROM ANY AND ALL CLAIMS, DEMANDS, ACTIONS, DAMAGES, LIABILITY, AND EXPENSE IN CONNECTION WITH LOSS OF LIFE, PERSONAL INJURY, AND/OR DAMAGE TO PROPERTY CAUSED BY ANY ACT, OMISSION, OF THE COMPANY OR ITS SUBCONTRACTORS, AGENTS, OR EMPLOYEES. THE OWNER AGREES TO INDEMNIFY THE COMPANY AND HOLD THE COMPANY HARMLESS FROM ANY AND ALL CLAIMS, DEMANDS, ACTIONS, DAMAGES, LIABILITY, AND EXPENSE IN CONNECTION WITH LOSS OF LIFE, PERSONAL INJURY, AND/OR DAMAGE TO PROPERTY CAUSED BY ACT OR OMISSION OF THE OWNER OR ITS CONTRACTORS, AGENTS, OR EMPLOYEES. THE INDEMNIFICATION PROVIDED IN THIS PARAGRAPH DOES NOT AFFECT THE COMPANY'S LIMITATIONS OF LIABILITY SET FORTH IN OTHER PARAGRAPHS OF THIS AGREEMENT.

9. REMEDIES

Company or Owner shall in no event be liable for consequential, incidental or punitive damages whatsoever.

10. MISCELLANEOUS:

No modifications, amendments, or alterations of this Agreement may be made except in writing signed by all the parties to this Agreement. No failure or delay on the part of any party hereto in exercising any power or right hereunder shall operate as a waiver thereof. The parties expressly warrant that the individuals who sign below are authorized to bind them without further action.

11. ENTIRE AGREEMENT:

This Agreement constitute the entire agreement of the parties and supersedes all prior communications, understandings, and agreement relating to the subject matter hereof, whether oral or written.

12. SEVERABILITY:

If any term of this Agreement is to any extent invalid, illegal, or incapable of being enforced, such term shall be excluded to the extent of such invalidity, illegality, or unenforceability; all other terms hereof shall remain in full force and effect.

13. VISUAL INSPECITON DISCLAIMER

This Contract is based upon a visual inspection of the Tank. The Owner and the Company hereby acknowledge and agree that a visual inspection is intended to assess the condition of the Tank for all patent defects. If latent defects are identified once the tank has been drained for repairs, the Owner agrees and acknowledges that the Company shall not be responsible to repair the latent defects unless the Owner and the Company renegotiate the annual fees. The definition of a "latent defect" shall be any defect of the Tank which is not easily discovered (e.g., corrosion of the floor plates, damage to the roof of the tank which is not clearly visible during the visual inspection, etc.).

Compliance with all Codes, Permitting and Licensing Requirements. The successful contractor shall comply with all national, state and local standards, codes and ordinances as well as any other authorities that have jurisdiction pertaining to equipment and materials used and their application. None of the terms or provisions of the specification shall be construed as waiving any rules, regulations or requirements of these authorities. The successful bidder shall be responsible for obtaining all necessary permits, certificates and/or licenses to fulfill contractual obligations.

Liability and Indemnity of City. Any provision of the Contract is void and unenforceable if it: (1) limits or releases either party from liability that would exist by law in the absence of the provision; (2) creates liability for either party that would not exist by law in the absence of the provision; or (3) waives or limits either party's rights, defenses, remedies, or immunities that would exist by law in the absence of the provision.. (Section 5, Article XI, Texas Constitution)

Indemnity and Independent Contractor Status of Contractor. Contractor shall indemnify, save harmless and defend the City, its officers, agents, and employees from and against any and all suits, actions, legal proceedings, claims, demands, damages, costs, expenses, attorney's fees and any and all other costs or fees (whether grounded in Constitutional law, Tort, Contract, or Property Law, or raised pursuant to local, state or federal statutory provision), arising out of the performance of the resulting agreement and/or arising out of a

willful or negligent act or omission of the contractor, its officers, agents, and employees. It is understood and agreed that the contractor and any employee or sub-contractor of contractor shall not be considered an employee of the City. The contractor shall not be within protection or coverage of the City's workers' compensation insurance, health insurance, liability insurance or any other insurance that the City from time to time may have in force and effect. City specifically reserves the right to reject any and all contractor's employees, representatives or sub-contractors and/or their employees for any cause, should the presence of any such person on City property or their interaction with City employees be found not in the best interest of the City, harassing, or is found to interfere with the effective and efficient operation of the City's workplace.

Liens. Contractor agrees to and shall indemnify and save harmless the City against any and all liens and encumbrances for all labor, goods and services which may be provided under the resulting agreement. At the City's request the contractor or subcontractors shall provide a proper release of all liens, or satisfactory evidence of freedom from liens shall be delivered to the City.

Tax Exemption. The City is not liable to Vendor for any federal, state, or local taxes for which the City is not liable by law, including state and local sales and use taxes (Section 151.309 and Title 3, Texas Tax Code) and federal excise tax (Subtitle D of the Internal Revenue Code). Accordingly, those taxes may not be added to any item. Texas limited sales tax exemption certificates will be furnished upon request. Vendors shall not charge for said taxes. If billed, the City will remit payment less sales tax.

Contractual Limitations Period. Any provision of the Contract that establishes a limitations period that does not run against the City by law or that is shorter than two years is void. (Sections 16.061 and 16.070, Texas Civil Practice and Remedies Code)

Sovereign Immunity. Any provision of the Contract that seeks to waive the City's immunity from suit and/or immunity from liability is void unless agreed to by specific acknowledgement of the provision within the contract.

Governing Law and Venue. Texas law governs this Contract and any lawsuit on this Contract must be filed in a court that has jurisdiction in Travis County, Texas.

Certificate of Interested Parties (TEC Form 1295). For contracts needing City Council approval, the City may not accept or enter into a contract until it has received from the Contractor a completed, and signed TEC Form 1295 complete with a certificate number assigned by the Texas Ethics Commission ("TEC"), pursuant to Texas Government Code § 2252.908 and the rules promulgated thereunder by the TEC. The Contractor understands that failure to provide said form complete with a certificate number assigned by the TEC may prohibit the City from entering the Contract.

Pursuant to the rules prescribed by the TEC, the TEC Form 1295 must be completed online through the TEC's website, assigned a certificate number, printed, signed and notarized, and provided to the City. The TEC Form 1295 may accompany the bid or may be submitted separately, but must be provided to the City prior to the award of the contract. Neither the City nor its consultants have the ability to verify the information included in a TEC Form 1295, and neither have an obligation nor undertake responsibility for advising any bidder with respect to

the proper completion of the TEC Form 1295.

Texas Government Code Mandatory Provisions. The City may not enter into a contract with a company for goods and services unless the contract contains a written verification from the company that it; (i) does not boycott Israel; (ii) will not boycott Israel during the term of the contract; (iii) does not boycott energy companies; (iv) will not boycott energy companies during the term of the contract; (v) does not have a practice, policy, guidance or directive that discriminates against a firearm entity or firearm trade association; and (vi) will not discriminate during the term of the contract against a firearm entity or firearm trade association (Texas Government Code, Chapter 2271.002; 2274.002).

Company hereby verifies that it does not boycott Israel, and agrees that, during the term of this agreement, will not boycott Israel as this term is defined in the Texas Government Code, Section 808.001, as amended. Company hereby verifies that it does not boycott energy companies, and agrees that, during the term of this agreement, will not boycott energy companies as this term is defined in Texas Government Code, Section 809.001, as amended. Company hereby verifies that it does not have a practice, policy, guidance or directive that discriminates against a firearm entity or firearm trade association, and agrees that, during the term of this agreement, will not discriminate against a firearm entity or firearm trade association as those terms are defined in Texas Government Code, Section 2274.001, as amended.

Company hereby certifies that it is not a company identified under Texas Government Code, Section 2252.152 as a company engaged in business with Iran, Sudan, or Foreign Terrorist Organizations.

Owner: _____

MAGUIRE IRON, INC.

By: _____
(Name) (Title)

By: _____
(Name) (Title)

By: Roxana Bagwell 09/27/2024
(Authorized Agent) (Date)

Date Accepted: _____

Upon acceptance, please provide two (2) signatures and date the agreement.

WITNESSETH:

Contractor agrees to make the following repairs and improvements on the Owner's water supply tank, and to furnish the necessary equipment, labor, material, as well as Workmen's Compensation Insurance and Contractor's Liability Insurance, and to do the work hereinafter stated in a good and workmanlike manner.

Exterior Renovation

- Contractor will pressure wash the complete exterior (100%) in accordance with SSPC SP No. 12.
- Contractor will SSPC SP No. 2 / 3 Hand tool clean / Power tool clean all rusted areas.
- Contractor will apply one (1) spot coat of epoxy to the rusted and abraded areas. Coatings shall be applied to manufacturer's recommended film thickness (2.0 - 4.0 mils DFT).
- Contractor will apply one (1) finish coat of acrylic to the complete exterior (100%) shall be applied to the manufacturer's recommendations (2.0 - 3.0 mils DFT).

Interior Wet Renovation

- Contractor will abrasive blast clean the complete interior (100%) to an SSPC - SP No. 10 "Near White Metal". After abrasive blast cleaning, all surfaces shall be cleaned of any dust residue or foreign debris.
- Contractor will apply one (1) prime coat of NSF-61 approved zinc rich primer to the complete interior (100%) shall be applied to manufacturer's recommended film thickness (2.5 - 3.5 mils DFT).
- Contractor will apply one (1) additional coat of NSF-61 approved epoxy to be applied by brush and roller to all edges, weld seams and sharp angles.
- Contractor will apply one (1) intermediate coat of NSF-61 approved epoxy to the complete interior (100%) shall be applied to the manufacturer's recommendations (4.0 - 6.0 mils DFT).
- Contractor will apply one (1) finish coat of NSF-61 approved epoxy to the complete interior (100%) shall be applied to the manufacturer's recommendations (4.0 - 6.0 mils DFT).

Disinfection Method

- Contractor will disinfect the interior of the tank as per AWWA Standard C652-02, Chlorine Method #3 prior to the owner filling the tank.
- Water samples and testing is the responsibility of the owner.

Roof Access

- Contractor will remove existing roof manway and install new 30 inch square manway.

Misc Steel Repair

- Remove Interior Ladder

Visual Inspection

- Contractor will do a complete inspection along with photos of the complete interior and exterior of the water tower.
- Contractor will work up a report of the findings during the Inspection of the city's water tower and send a detailed report that will include current condition, and future recommendations as applicable. Inspection to cover, Coatings, Sanitary, Security, Safety and Structural conditions.

Cleanout

- Contractor will furnish tools, labor, and materials as well as necessary insurance to perform the work in a good and workmanlike manner.
- Contractor will furnish a pressure relief valve / blow off valve for use by the Owner if needed at no charge.
- Contractor will wash out heavy sediment once the tank is emptied by the owner.
- Contractor will power wash the bottom 6' of the interior wet area of the tank after heavy sediment has been removed from the tank. Some staining may remain.
- Should any emergency repair or renovation be necessary, cost and details to be submitted. No extra work will be done without the owner's authorization.
- Contractor will do a complete inspection along with photos of the complete interior and exterior of the water tank.



Schedule A: Cost Schedule

Fair Oaks Ranch, TX - City of Plant #3 –350KG GST Wild Oak Hill		
Year	Service	Annual Spend
2025	Clean Out / ROV	\$26,539.00
2026	Visual Inspection	\$26,539.00
2027	Visual Inspection	\$26,539.00
2028	Visual Inspection	\$26,539.00
2029	Paint - Exterior Paint - Interior Wet Steelwork Repairs	\$26,539.00
2030	Visual Inspection	\$26,539.00
2031	Visual Inspection	\$26,539.00
2032	Visual Inspection	\$26,539.00
2032	Clean Out / ROV	\$26,539.00
2033	Visual Inspection	\$26,539.00



FULL-SERVICE MAINTENANCE PLAN



Fair Oaks Ranch, TX - City of

Plant #5 125KG GST

Fair Oaks Ranch, TX

October 31, 2024

MAGUIREWATER.COM

FULL-SERVICE MAINTENANCE PLAN CONTRACT

THIS AGREEMENT is made this 31 day of October, 2024, by and between Fair Oaks Ranch, TX - City of, hereinafter referred to in this Agreement as "Owner", and Maguire Iron, Inc. of Sioux Falls, SD, hereinafter referred to in this Agreement as "the Company".

This Agreement along with all incorporated documents referenced herein shall set forth the full terms and conditions agreed to between the parties in reference to the inspection, maintenance, and rehabilitation of the Plant #5 – 125KG GST Water Tower(s) by the Company as outlined in **Schedule A**.

1. SCOPE:

The Owner agrees to employ the Company to maintain its water storage tanks in accordance with this Agreement. This Agreement binds the Company to responsibility for the care and maintenance of the above described water storage tanks. Care and maintenance shall include the following:

- a. **Inspection:** The Company will annually inspect and service the tanks beginning in the year of 2025 as per the schedule with visual inspections and cleanout inspections. If any significant repair or touch up is observed we will schedule a time for the owner to drain the tank to make necessary repairs.
- b. **Drainage:** When a cleanout/inspection is done, the tanks will be completely drained and cleaned to remove and properly dispose of all sediment and other accumulations that might be harmful to the tank or its contents (not including staining). This cleaning will use high-pressure equipment. Any necessary touch up will be done at time of cleaning to extend coating life.
- c. **Disinfection:** After cleaning is completed, the interior will be inspected and disinfected by the Company prior to returning to service. Sampling and testing will be the responsibility of the Owner.
- d. **Painting:** The Company will clean and repaint the interior and/or exterior of the tanks at such time as painting is needed, but at a minimum in accordance with the schedule mutually agreed upon by the Owner and the Company, unless otherwise requested and extended by the Owner in writing. The need for interior painting will be determined by the thickness of the existing liner and its protective condition. The need for exterior painting will be determined by the appearance and protective condition of the existing paint. When painting is needed, all products and procedures will be equal to, or exceed the requirements of the state, the American Water Works Association, and the Steel Structures Painting Council as to surface preparation, coating materials, and disinfections. A lock, provided by the Owner will be installed on the roof hatch of the tanks to prevent any unauthorized entry to the water tanks. The keys to the tank will be retained by the Owner.

- e. **Emergency:** The Company will provide emergency services, when needed, to perform all repairs covered under this contract. Reasonable travel time must be allowed for the repair unit to reach the tank site. The Company will furnish temporary use of relief valves, if needed, to install in the water system so the Owner can pump direct to maintain water pressure while the tank is being serviced. The owner has the option to purchase relief valves for long-term use.
- f. **Exclusions:** This Agreement does NOT include the cost for and/or liability on the part of the Company for: (1) containment of the tanks at any time during the term of the Agreement; (2) disposal of any hazardous waste materials; (3) resolution of operational problems or structural damage due to cold weather, acts of terrorism or other "Acts of God"; (4) repair of structural damage due to antenna installations or other attachments for which the tank was not originally designed; (5) riser pipes that are smaller than 36 inches in diameter; (6) insulation, frost jackets, and fill lines; (7) negligent or intentional acts of Owner's employees, invitees, agents, or contractors or subcontractor or any person or entity under Owner's control; (8) resolution of operational problems or repair of structural damage or site damage caused by physical conditions below the surface of the ground; (9) damages, whether foreseen or unforeseen, caused by the Owner's use of pressure relief valves and site conditions; (10) repairs to the foundation of the tank; (11) payment of prevailing wages at any time throughout the duration of this agreement; (12) negligent acts of Owner's employees, agents or contractors in the operation of the water system.

2. **INSURANCE:**

The Company will furnish current certificates of insurance coverage to the Owner at the time any work is performed. Company insurers shall waive subrogation

3. **TERM:**

This agreement shall be for one year and automatically renews annually on the contract execution date. The Owner shall have the right to continue this contract for an indefinite period of time providing the annual fee is paid in accordance with the terms of payment. This agreement is subject to termination by the Owner upon written notice of intent to terminate which must be received by the Company ninety (90) days prior to the effective date of termination. Notice of Termination is to be delivered by certified mail to Maguire Iron Inc. PO Box 1446 Sioux Falls, SD 57101, and signed by the Mayor, City Manager or authorized agent. The owner will be responsible to the Company for the cost (at current market rates) of any work that has been performed prior to termination. Any disputes arising out of such termination are subject to the remedies section hereinafter set out.

4. **COST/PAYMENT TERM:**

The cost of the program is detailed in the **attached Schedule A**. Each year thereafter, the annual fee will be adjusted to reflect the current cost of service. The adjustments will be limited to a five percent annual increase. **Payment Options:** ___quarterly, ___semi-annually, or X

annual payments are due the first business day of selected payment period. Net 30 days from acceptance and invoicing, plus applicable sales, use, excise, transfer or similar taxes required by law. A service charge of 1.5% per month (18% per annum) will be charged on past due accounts.

5. TANK MODIFICATION:

The Company's fees are based upon the existing structure and components of the tanks. *Any modifications to the tanks, including but not limited to antenna installations, shall be approved by the Company, prior to installation or modification and may result in an increase to the annual fee.*

6. CHANGES IN LAW:

The Owner agrees that future mandated environmental, health, safety, or labor requirements as well as changes in site conditions at the tank site which cause an increase in the cost of tank maintenance will be just cause for modification of Section 4 of this Agreement. Modification of this Agreement will reasonably reflect the increased cost of the service with a newly negotiated annual fee.

7. ASSIGNMENT:

The Owner may not assign or otherwise transfer all or any of its interest under this Agreement without the prior written consent of the Company. If the Company agrees to the assignment, the Owner shall remain responsible under this Agreement, until its assignee assumes in full and in writing all of the obligations of the Owner under this Agreement.

8. INDEMNIFICATION:

THE COMPANY AGREES TO INDEMNIFY THE OWNER AND HOLD THE OWNER HARMLESS FROM ANY AND ALL CLAIMS, DEMANDS, ACTIONS, DAMAGES, LIABILITY, AND EXPENSE IN CONNECTION WITH LOSS OF LIFE, PERSONAL INJURY, AND/OR DAMAGE TO PROPERTY CAUSED BY ANY ACT, OMISSION, OF THE COMPANY OR ITS SUBCONTRACTORS, AGENTS, OR EMPLOYEES. THE OWNER AGREES TO INDEMNIFY THE COMPANY AND HOLD THE COMPANY HARMLESS FROM ANY AND ALL CLAIMS, DEMANDS, ACTIONS, DAMAGES, LIABILITY, AND EXPENSE IN CONNECTION WITH LOSS OF LIFE, PERSONAL INJURY, AND/OR DAMAGE TO PROPERTY CAUSED BY ACT OR OMISSION OF THE OWNER OR ITS CONTRACTORS, AGENTS, OR EMPLOYEES. THE INDEMNIFICATION PROVIDED IN THIS PARAGRAPH DOES NOT AFFECT THE COMPANY'S LIMITATIONS OF LIABILITY SET FORTH IN OTHER PARAGRAPHS OF THIS AGREEMENT.

9. REMEDIES

Company or Owner shall in no event be liable for consequential, incidental or punitive damages whatsoever.

10. MISCELLANEOUS:

No modifications, amendments, or alterations of this Agreement may be made except in writing signed by all the parties to this Agreement. No failure or delay on the part of any party hereto in exercising any power or right hereunder shall operate as a waiver thereof. The parties expressly warrant that the individuals who sign below are authorized to bind them without further action.

11. ENTIRE AGREEMENT:

This Agreement constitute the entire agreement of the parties and supersedes all prior communications, understandings, and agreement relating to the subject matter hereof, whether oral or written.

12. SEVERABILITY:

If any term of this Agreement is to any extent invalid, illegal, or incapable of being enforced, such term shall be excluded to the extent of such invalidity, illegality, or unenforceability; all other terms hereof shall remain in full force and effect.

13. VISUAL INSPECITON DISCLAIMER

This Contract is based upon a visual inspection of the Tank. The Owner and the Company hereby acknowledge and agree that a visual inspection is intended to assess the condition of the Tank for all patent defects. If latent defects are identified once the tank has been drained for repairs, the Owner agrees and acknowledges that the Company shall not be responsible to repair the latent defects unless the Owner and the Company renegotiate the annual fees. The definition of a "latent defect" shall be any defect of the Tank which is not easily discovered (e.g., corrosion of the floor plates, damage to the roof of the tank which is not clearly visible during the visual inspection, etc.).

Compliance with all Codes, Permitting and Licensing Requirements. The successful contractor shall comply with all national, state and local standards, codes and ordinances as well as any other authorities that have jurisdiction pertaining to equipment and materials used and their application. None of the terms or provisions of the specification shall be construed as waiving any rules, regulations or requirements of these authorities. The successful bidder shall be responsible for obtaining all necessary permits, certificates and/or licenses to fulfill contractual obligations.

Liability and Indemnity of City. Any provision of the Contract is void and unenforceable if it: (1) limits or releases either party from liability that would exist by law in the absence of the provision; (2) creates liability for either party that would not exist by law in the absence of the provision; or (3) waives or limits either party's rights, defenses, remedies, or immunities that would exist by law in the absence of the provision.. (Section 5, Article XI, Texas Constitution)

Indemnity and Independent Contractor Status of Contractor. Contractor shall indemnify, save harmless and defend the City, its officers, agents, and employees from and against any and all suits, actions, legal proceedings, claims, demands, damages, costs, expenses, attorney's fees and any and all other costs or fees (whether grounded in Constitutional law, Tort, Contract, or Property Law, or raised pursuant to local, state or federal statutory provision), arising out of the performance of the resulting agreement and/or arising out of a

willful or negligent act or omission of the contractor, its officers, agents, and employees. It is understood and agreed that the contractor and any employee or sub-contractor of contractor shall not be considered an employee of the City. The contractor shall not be within protection or coverage of the City's workers' compensation insurance, health insurance, liability insurance or any other insurance that the City from time to time may have in force and effect. City specifically reserves the right to reject any and all contractor's employees, representatives or sub-contractors and/or their employees for any cause, should the presence of any such person on City property or their interaction with City employees be found not in the best interest of the City, harassing, or is found to interfere with the effective and efficient operation of the City's workplace.

Liens. Contractor agrees to and shall indemnify and save harmless the City against any and all liens and encumbrances for all labor, goods and services which may be provided under the resulting agreement. At the City's request the contractor or subcontractors shall provide a proper release of all liens, or satisfactory evidence of freedom from liens shall be delivered to the City.

Tax Exemption. The City is not liable to Vendor for any federal, state, or local taxes for which the City is not liable by law, including state and local sales and use taxes (Section 151.309 and Title 3, Texas Tax Code) and federal excise tax (Subtitle D of the Internal Revenue Code). Accordingly, those taxes may not be added to any item. Texas limited sales tax exemption certificates will be furnished upon request. Vendors shall not charge for said taxes. If billed, the City will remit payment less sales tax.

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Texas Government Code Mandatory Provisions. The City may not enter into a contract with a company for goods and services unless the contract contains a written verification from the company that it; (i) does not boycott Israel; (ii) will not boycott Israel during the term of the contract; (iii) does not boycott energy companies; (iv) will not boycott energy companies during the term of the contract; (v) does not have a practice, policy, guidance or directive that discriminates against a firearm entity or firearm trade association; and (vi) will not discriminate during the term of the contract against a firearm entity or firearm trade association (Texas Government Code, Chapter 2271.002; 2274.002).

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Company hereby certifies that it is not a company identified under Texas Government Code, Section 2252.152 as a company engaged in business with Iran, Sudan, or Foreign Terrorist Organizations.

Owner: _____

MAGUIRE IRON, INC.

By: _____
(Name) (Title)

By: _____
(Name) (Title)

By: Roxana Bagwell 09/27/2024
(Authorized Agent) (Date)

Date Accepted: _____

Upon acceptance, please provide two (2) signatures and date the agreement.

WITNESSETH:

Contractor agrees to make the following repairs and improvements on the Owner's water supply tank, and to furnish the necessary equipment, labor, material, as well as Workmen's Compensation Insurance and Contractor's Liability Insurance, and to do the work hereinafter stated in a good and workmanlike manner.

Exterior Renovation

- Contractor will pressure wash the complete exterior (100%) in accordance with SSPC SP No. 12.
- Contractor will SSPC SP No. 2 / 3 Hand tool clean / Power tool clean all rusted areas.
- Contractor will apply one (1) spot coat of epoxy to the rusted and abraded areas. Coatings shall be applied to manufacturer's recommended film thickness (2.0 - 4.0 mils DFT).
- Contractor will apply one (1) finish coat of acrylic to the complete exterior (100%) shall be applied to the manufacturer's recommendations (2.0 - 3.0 mils DFT).

Interior Wet Renovation

- Contractor will abrasive blast clean the complete interior (100%) to an SSPC - SP No. 10 "Near White Metal". After abrasive blast cleaning, all surfaces shall be cleaned of any dust residue or foreign debris.
- Contractor will apply one (1) prime coat of NSF-61 approved zinc rich primer to the complete interior (100%) shall be applied to manufacturer's recommended film thickness (2.5 - 3.5 mils DFT).
- Contractor will apply one (1) additional coat of NSF-61 approved epoxy to be applied by brush and roller to all edges, weld seams and sharp angles.
- Contractor will apply one (1) intermediate coat of NSF-61 approved epoxy to the complete interior (100%) shall be applied to the manufacturer's recommendations (4.0 - 6.0 mils DFT).
- Contractor will apply one (1) finish coat of NSF-61 approved epoxy to the complete interior (100%) shall be applied to the manufacturer's recommendations (4.0 - 6.0 mils DFT).

Disinfection Method

- Contractor will disinfect the interior of the tank as per AWWA Standard C652-02, Chlorine Method #3 prior to the owner filling the tank.
- Water samples and testing is the responsibility of the owner.

Frost Proof Vent

- Contractor will remove existing vent and furnish and install a new state compliant 30 inch fail safe steel vent.

Misc Steel Repair

- Install Gate on Existing Ladder Cage
- Caulk Gap between Foundation and Tank

Visual Inspection

- Contractor will do a complete inspection along with photos of the complete interior and exterior of the water tower.
- Contractor will work up a report of the findings during the Inspection of the city's water tower and send a detailed report that will include current condition, and future recommendations as applicable. Inspection to cover, Coatings, Sanitary, Security, Safety and Structural conditions.

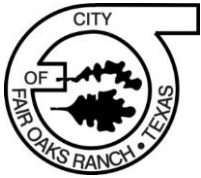
Cleanout

- Contractor will furnish tools, labor, and materials as well as necessary insurance to perform the work in a good and workmanlike manner.
- Contractor will furnish a pressure relief valve / blow off valve for use by the Owner if needed at no charge.
- Contractor will wash out heavy sediment once the tank is emptied by the owner.
- Contractor will power wash the bottom 6' of the interior wet area of the tank after heavy sediment has been removed from the tank. Some staining may remain.
- Should any emergency repair or renovation be necessary, cost and details to be submitted. No extra work will be done without the owner's authorization.
- Contractor will do a complete inspection along with photos of the complete interior and exterior of the water tank.



Schedule A: Cost Schedule

Fair Oaks Ranch, TX - City of Plant #5 125KG GST		
Year	Service	Annual Spend
2025	Clean Out / ROV	\$18,677.00
2026	Visual Inspection	\$18,677.00
2027	Visual Inspection	\$18,677.00
2028	Visual Inspection	\$18,677.00
2029	Visual Inspection	\$18,677.00
2030	Paint - Exterior Paint - Interior Wet Steelwork Repairs	\$18,677.00
2031	Visual Inspection	\$18,677.00
2032	Visual Inspection	\$18,677.00
2032	Visual Inspection	\$18,677.00
2033	Clean Out / ROV	\$18,677.00



**CITY COUNCIL CONSENT ITEM
CITY OF FAIR OAKS RANCH, TEXAS**

AGENDA TOPIC: Approval of a resolution authorizing the execution of an agreement with Maguire Iron, Inc. for the Water Plant 5 Ground Storage Tank project
DATE: November 21, 2024
DEPARTMENT: Finance
PRESENTED BY: Consent Item: Clayton Hoelscher, Procurement Manager

INTRODUCTION/BACKGROUND:

The City budgeted \$1,320,800 for the expansion of Water Plant 5. This project constructs a new 500,000-gallon ground storage tank to increase storage capacity and improve system operations and resiliency. The existing 125,000-gallon ground storage tank turns over multiple times a day and is not adequate to meet peak demands or other emergency events such as extended power outages. The existing tank will remain in service and will be operated in parallel with the new tank.

Water Plant 5 is the City’s Guadalupe-Blanco River Authority (GBRA) delivery point and supplies purchased water directly to Plant 3 (Zone A) and Elmo Davis (Zones B and C). Construction of the new ground storage tank at Plant 5 will benefit the City’s entire water service area.

In July 2023, the City entered into a professional services agreement with Maguire Iron, Inc. for engineering and design services for the project. Tank design was completed in early 2024.

In October 2024, the City received a proposal (**Exhibit A**) from Maguire Iron, Inc. to construct the new ground storage tank. Construction is anticipated to be completed by August 2026. The City will utilize The Interlocal Purchasing System (TIPS) purchasing cooperative for this purchase. Utilizing the TIPS cooperative fulfills the City’s competitive requirements.

City staff and GEC have reviewed the proposal and determined it to be fair and reasonable. A bid analysis using comparable projects from other Texas cities, water districts and utility providers is attached as **Exhibit B**.

POLICY ANALYSIS/BENEFIT(S) TO CITIZENS:

- Supports Priority 3.1 of the Strategic Action Plan to Enhance and Ensure Continuity of Reliable Water Resources.
- Complies with Competitive Procurement Requirements.

LONGTERM FINANCIAL & BUDGETARY IMPACT:

The City budgeted \$1,320,800 in FY 2024-25 for this project, and \$206,429 in design savings are available from previously appropriated funds. The proposal from Maguire Iron, Inc. is for \$1,425,000.

LEGAL ANALYSIS:

The Contractor will be required to sign and adhere to the City’s Standard Construction Agreement prior to the commencement of work. A copy is attached.

RECOMMENDATION/PROPOSED MOTION:

Consent Item - I move to approve a resolution authorizing the execution of an agreement with Maguire Iron, Inc. for the Water Plant 5 Ground Storage Tank project in the amount of \$1,425,000, expenditure of the required funds, and execution of all applicable documents by the City Manager.

A RESOLUTION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FAIR OAKS RANCH, TEXAS AUTHORIZING THE EXECUTION OF AGREEMENTS WITH MAGUIRE IRON, INC. FOR THE WATER PLANT 5 GROUND STORAGE TANK PROJECT, EXPENDITURE OF THE REQUIRED FUNDS, AND EXECUTION OF ALL APPLICABLE DOCUMENTS BY THE CITY MANAGER

WHEREAS, the City of Fair Oaks Ranch (the “City”) included funds in FY 2024-25 for a water ground storage tank; and

WHEREAS, the City is executing this agreement in accordance with Texas Local Government Code 791 by utilizing the Interlocal Purchasing System purchasing cooperative; and

WHEREAS, the total cost for this agreement is \$1,425,000.00; and

WHEREAS, the tank will be 500,000 gallons and is anticipated to be completed by August 2026; and

WHEREAS, the City Council of the City of Fair Oaks Ranch supports the project and authorizes the execution of an agreement with Maguire Iron, Inc. **(Exhibit A)**.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAIR OAKS RANCH, TEXAS:

Section 1 The City Council hereby authorizes the City Manager to execute an agreement with Maguire Iron, Inc. for the Water Plant 5 Ground Storage Tank project, to expend required funds up to \$1,425,000.00 and to execute any and all applicable documents to effectuate this resolution.

Section 2. That the recitals contained in the preamble hereto are hereby found to be true and such recitals are hereby made a part of this resolution for all purposes and are adopted as a part of the judgment and findings of the Council.

Section3. If any provision of this resolution or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this resolution and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City Council hereby declares that this resolution would have been enacted without such invalid provision.

Section 4. That it is officially found, determined, and declared that the meeting at which this resolution is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this resolution, was given, all as required by Chapter 551, as amended, Texas Government Code.

Section 5. All resolutions or parts thereof, which are in conflict or inconsistent with any provision of this resolution are hereby repealed to the extent of such conflict, and the provision of this resolution shall be and remain controlling as to the matters resolved herein.

Section 6. This resolution shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

Section 7. This resolution shall be in force and effect from and after its final passage, and it is so resolved.

PASSED, APPROVED, and ADOPTED on this 21st day of November 2024.

Gregory C. Maxton, Mayor

ATTEST:

APPROVED AS TO FORM:

Christina Picioccio, TRMC
City Secretary

Denton Navarro Rodriguez Bernal Santee & Zech
P.C., City Attorney

CITY OF FAIR OAKS RANCH
CONSTRUCTION AGREEMENT

THE STATE OF TEXAS §
 §
 KENDALL COUNTY §

This Construction Agreement (“Agreement”) is made and entered by and between the City of Fair Oaks Ranch, Texas, (the “City”) a Texas municipality, and Maguire Iron, Inc. (“Contractor”).

Section 1. Duration. This Agreement shall become effective upon the date of the final signature affixed hereto and shall remain in effect until satisfactory completion of the Scope of Work unless terminated as provided for in this Agreement.

Section 2. Scope of Work.

(A) Contractor shall perform the Work as more particularly described in the Scope of Work attached hereto as Exhibit “A”. The work as described in the Scope of Work constitutes the “Project”.

(B) The Quality of Work provided under this Agreement shall be of the level of quality performed by Contractors regularly rendering this type of service.

(C) The Contractor shall perform its Work for the Project in compliance with all statutory, regulatory and contractual requirements now or hereafter in effect as may be applicable to the rights and obligations set forth in the Agreement.

(D) The Contractor may rely upon the accuracy of reports and surveys provided to it by the City except when defects should have been apparent to a reasonably competent Contractor or when it has actual notice of any defects in the reports and surveys.

Section 3. Compensation.

(A) The Contractor shall be paid in the manner set forth in Exhibit “A” and as provided herein.

(B) *Billing Period:* The Contractor may submit monthly, or less frequently, an invoice for payment based on the estimated completion of the described tasks and approved work schedule. Subject to Chapter 2251, Texas Government Code (the “Prompt Payment Act”), payment is due within thirty (30) days of the City’s receipt of the Contractor’s invoice. Interest on overdue payments shall be calculated in accordance with the Prompt Payment Act.

(C) *Reimbursable Expenses:* Any and all reimbursable expenses related to the Project shall be included in the scope of Work (Exhibit A) and accounted for in the total contract amount.

Section 4. Time of Completion.

The prompt completion of the Work under the Scope of Work relates is critical to the City. Unnecessary delays in providing Work under a Scope of Work shall be grounds for dismissal of the Contractor and termination of this Agreement without any or further liability to the City other than a prorated payment for necessary, timely, and conforming work done by Contractor prior to the time of termination. The Project shall be completed for inspection and acceptance as detailed in Exhibit A.

Section 5. Insurance.

Before commencing work under this Agreement, Contractor shall obtain and maintain the liability insurance provided for below throughout the term of the Project plus an additional two years. Contractor shall provide evidence of such insurance to the City. Such documentation shall meet the requirements noted in Exhibit B.

Contractor shall maintain the following limits and types of insurance:

Workers Compensation Insurance: Contractor shall carry and maintain during the term of this Agreement, workers compensation and employers' liability insurance meeting the requirements of the State of Texas on all the Contractor's employees carrying out the work involved in this contract.

General Liability Insurance: Contractor shall carry and maintain during the term of this Agreement, general liability insurance on a per occurrence basis with limits of liability not less than \$1,000,000 for each occurrence and for fire damage. For Bodily Injury and Property Damage, coverage shall be no less than \$1,000,000. As a minimum, coverage for Premises, Operations, Products and Completed Operations shall be \$2,000,000. This coverage shall protect the public or any person from injury or property damages sustained by reason of the Contractor or its employees carrying out the work involved in this Agreement. The general aggregate shall be no less than \$2,000,000.

Automobile Liability Insurance: Contractor shall carry and maintain during the term of this Agreement, automobile liability insurance with either a combined limit of at least \$1,000,000 per occurrence for bodily injury and property damage or split limits of at least \$1,000,000 for bodily injury per person per occurrence and \$1,000,000 for property damage per occurrence. Coverage shall include all owned, hired, and non-owned motor vehicles used in the performance of this contract by the Contractor or its employees.

Subcontractor: In the case of any work sublet, the Contractor shall require subcontractor and independent contractors working under the direction of either the Contractor or a

subcontractor to carry and maintain the same workers compensation and liability insurance required of the Contractor.

Qualifying Insurance: The insurance required by this Agreement shall be written by non-assessable insurance company licensed to do business in the State of Texas and currently rated "B+" or better by the A.M. Best Companies. All policies shall be written on a "per occurrence basis" and not a "claims made" form.

Evidence of such insurance shall be attached as Exhibit "C".

Section 6. Miscellaneous Provisions.

(A) *Subletting.* The Contractor shall not sublet or transfer any portion of the work under this Agreement, or any Scope of Work issued pursuant to this Agreement unless specifically approved in writing by the City, which approval shall not be unreasonably withheld. Subcontractors shall comply with all provisions of this Agreement and the applicable Scope of Work. The approval or acquiescence of the City in the subletting of any work shall not relieve the Contractor of any responsibility for work done by such subcontractor.

(B) *Compliance with Laws.* The Contractor shall comply with all federal, state and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts, administrative, or regulatory bodies in any matter affecting the performance of this Agreement, including, without limitation, worker's compensation laws, minimum and maximum salary and wage statutes and regulations, and licensing laws and regulations. When required, the Contractor shall furnish the City with satisfactory proof of compliance.

(C) *Independent Contractor.* Contractor acknowledges that Contractor is an independent contractor of the City and is not an employee, agent, official or representative of the City. Contractor shall not represent, either expressly or through implication, that Contractor is an employee, agent, official or representative of the City. Income taxes, self-employment taxes, social security taxes and the like are the sole responsibility of the Contractor.

(D) *Non-Collusion.* Contractor represents and warrants that Contractor has not given, made, promised or paid, nor offered to give, make, promise or pay any gift, bonus, commission, money or other consideration to any person as an inducement to or in order to obtain the work to be provided to the City under this Agreement. Contractor further agrees that Contractor shall not accept any gift, bonus, commission, money, or other consideration from any person (other than from the City pursuant to this Agreement) for any of the Work performed by Contractor under or related to this Agreement. If any such gift, bonus, commission, money, or other consideration is received by or offered to Contractor, Contractor shall immediately report that fact to the City and, at the sole option of the City, the City may elect to accept the consideration for itself or to take the value of such consideration as a credit against the compensation otherwise owing to Contractor under or pursuant to this Agreement.

(E) *Force Majeure*. If the performance of any covenant or obligation to be performed hereunder by any party is delayed as a result of circumstances which are beyond the reasonable control of such party (which circumstances may include, without limitation, pending litigation, acts of God, war, acts of civil disobedience, fire or other casualty, shortage of materials, adverse weather conditions [such as, by way of illustration and not of limitation, severe rain storms or below freezing temperatures, or tornados] labor action, strikes or similar acts, moratoriums or regulations or actions by governmental authorities), the time for such performance shall be extended by the amount of time of such delay, but no longer than the amount of time reasonably occasioned by the delay. The party claiming delay of performance as a result of any of the foregoing force majeure events shall deliver written notice of the commencement of any such delay resulting from such force majeure event not later than seven (7) days after the claiming party becomes aware of the same, and if the claiming party fails to so notify the other party of the occurrence of a force majeure event causing such delay and the other party shall not otherwise be aware of such force majeure event, the claiming party shall not be entitled to avail itself of the provisions for the extension of performance contained in this subsection.

(F) In the case of any conflicts between the terms of this Agreement and wording contained within the Scope of Work, this Agreement shall govern. The Scope of Work is intended to detail the technical scope of Work, fee schedule, and contract time only and shall not dictate Agreement terms.

Section 7. Termination.

(A) This Agreement may be terminated:

- (1) By the mutual agreement and consent of both Contractor and City;
- (2) By either party, upon the failure of the other party to fulfill its obligations as set forth in either this Agreement or a Scope of Work issued under this Agreement;
- (3) By the City, immediately upon notice in writing to the Contractor, as consequence of the failure of Contractor to perform the Work contemplated by this Agreement in a timely or satisfactory manner;
- (4) By the City, at will and without cause upon not less than thirty (30) days written notice to the Contractor.

(B) If the City terminates this Agreement pursuant to subsection 7(A)(2) or (3), above, the Contractor shall not be entitled to any fees or reimbursable expenses other than the fees and reimbursable expenses then due and payable as of the time of termination and only then for those Work that have been timely and adequately performed by the Contractor considering the actual costs incurred by the Contractor in performing work to date of termination, the value of the work that is nonetheless usable to the City, the cost to the City of employing another Contractor to complete the work required and the time required to do so, and other factors that affect the value to the City of the work performed

at time of termination. In the event of termination not the fault of the Contractor, the Contractor shall be compensated for all basic, special, and additional Work actually performed prior to termination, together with any reimbursable expenses then due.

Section 8. Indemnification. Contractor agrees to indemnify and hold the City of Fair Oaks Ranch, Texas and all of its present, future and former agents, employees, officials and representatives harmless in their official, individual and representative capacities from any and all claims, demands, causes of action, judgments, liens and expenses (including attorney's fees, whether contractual or statutory), costs and damages (whether common law or statutory), costs and damages (whether common law or statutory, and whether actual, punitive, consequential or incidental), of any conceivable character, for injuries to persons (including death) or to property (both real and personal) created by, arising from or in any manner relating to the Work or goods performed or provided by Contractor – expressly including those arising through strict liability or under the constitutions of the United States.

Section 9. Notices. Any notice required or desired to be given from one party to the other party to this Agreement shall be in writing and shall be given and shall be deemed to have been served and received (whether actually received or not) if (i) delivered in person to the address set forth below; (ii) deposited in an official depository under the regular care and custody of the United States Postal Service located within the confines of the United States of America and sent by certified mail, return receipt requested, and addressed to such party at the address hereinafter specified; or (iii) delivered to such party by courier receipted delivery. Either party may designate another address within the confines of the continental United States of America for notice, but until written notice of such change is actually received by the other party, the last address of such party designated for notice shall remain such party's address for notice.

Section 10. No Assignment. Neither party shall have the right to assign that party's interest in this Agreement without the prior written consent of the other party.

Section 11. Severability. If any term or provision of this Agreement is held to be illegal, invalid or unenforceable, the legality, validity or enforceability of the remaining terms or provisions of this Agreement shall not be affected thereby, and in lieu of each such illegal, invalid or unenforceable term or provision, there shall be added automatically to this Agreement a legal, valid or enforceable term or provision as similar as possible to the term or provision declared illegal, invalid or unenforceable.

Section 12. Waiver. Either City or the Contractor shall have the right to waive any requirement contained in this Agreement that is intended for the waiving party's benefit, but, except as otherwise provided herein, such waiver shall be effective only if in writing executed by the party for whose benefit such requirement is intended. No waiver of any breach or violation of any term of this Agreement shall be deemed or construed to constitute a waiver of any other breach or violation, whether concurrent or subsequent, and whether of the same or of a different type of breach or violation.

Section 13. Governing Law; Venue. This Agreement and all of the transactions contemplated herein shall be governed by and construed in accordance with the laws of the State of Texas. The provisions and obligations of this Agreement are performable in Kendall County, Texas such that exclusive venue for any action arising out of this Agreement shall be in Kendall County, Texas.

Section 14. Paragraph Headings; Construction. The paragraph headings contained in this Agreement are for convenience only and shall in no way enlarge or limit the scope or meaning of the various and several paragraphs hereof. Both parties have participated in the negotiation and preparation of this Agreement and this Agreement shall not be construed either more or less strongly against or for either party.

Section 15. Binding Effect. Except as limited herein, the terms and provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, devisees, personal and legal representatives, successors and assigns.

Section 16. Gender. Within this Agreement, words of any gender shall be held and construed to include any other gender, and words in the singular number shall be held and construed to include the plural, unless the context otherwise requires.

Section 17. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, and all of which shall constitute but one and the same instrument.

Section 18. Exhibits. All exhibits to this Agreement are incorporated herein by reference for all purposes wherever reference is made to the same.

Section 19. Entire Agreement. It is understood and agreed that this Agreement contains the entire agreement between the parties and supersedes any and all prior agreements, arrangements or understandings between the parties relating to the subject matter. No oral understandings, statements, promises or inducements contrary to the terms of this Agreement exist. This Agreement cannot be changed or terminated orally.

Section 20. Relationship of Parties. Nothing contained in this Agreement shall be deemed or construed by the parties hereto or by any third party to create the relationship of principal and agent or of partnership or of joint venture or of any association whatsoever between the parties, it being expressly understood and agreed that no provision contained in this Agreement nor any act or acts of the parties hereto shall be deemed to create any relationship between the parties other than the relationship of independent parties contracting with each other solely for the purpose of effecting the provisions of this Agreement.

Section 21. Right To Audit. City shall have the right to examine and audit the books and records of Contractor with regards to the work described in Exhibit A, or any subsequent changes, at any reasonable time. Such books and records will be maintained

in accordance with generally accepted principles of accounting and will be adequate to enable determination of: (1) the substantiation and accuracy of any payments required to be made under this Agreement; and (2) compliance with the provisions of this Agreement.

22. Dispute Resolution. In accordance with the provisions of Subchapter I, Chapter 271, TEX. LOCAL GOV'T CODE, the parties agree that, prior to instituting any lawsuit or other proceeding arising from a dispute under this agreement, the parties will first attempt to resolve the dispute by taking the following steps: (1) A written notice substantially describing the nature of the dispute shall be delivered by the dissatisfied party to the other party, which notice shall request a written response to be delivered to the dissatisfied party not less than 5 days after receipt of the notice of dispute. (2) If the response does not reasonably resolve the dispute, in the opinion of the dissatisfied party, the dissatisfied party shall give notice to that effect to the other party whereupon each party shall appoint a person having authority over the activities of the respective parties who shall promptly meet, in person, in an effort to resolve the dispute. (3) If those persons cannot or do not resolve the dispute, then the parties shall each appoint a person from the highest tier of managerial responsibility within each respective party, who shall then promptly meet, in person, in an effort to resolve the dispute.

23. Disclosure of Business Relationships/Affiliations; Conflict of Interest Questionnaire. Contractor represents that it is in compliance with the applicable filing and disclosure requirements of Chapter 176 of the Texas Local Government Code.

24. Boycott Israel. The City may not enter into a contract with a company for goods and services unless the contract contains a written verification from the company; (i) it does not Boycott Israel; and (ii) will not Boycott Israel during the term of the contract. (Texas government code chapter 2270) by entering this agreement, Professional verifies that it does not Boycott Israel, and agrees that during the term of the agreement will not Boycott Israel as that term is defined in the Texas Government Code Section 808.001, as amended.

25. Energy Company Boycotts. Contractor represents and warrants that: (1) it does not, and will not for the duration of the contract, boycott energy companies or (2) the verification required by Section 2274.002 of the Texas Government Code does not apply to the contract. If circumstances relevant to this provision change during the course of the contract, Contractor shall promptly notify City.

26. Firearm Entities and Trade Association Discrimination. Contractor verifies that: (1) it does not, and will not for the duration of the contract, have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association or (2) the verification required by Section 2274.002 of the Texas Government Code does not apply to the contract. If circumstances relevant to this provision change during the course of the contract, Contractor shall promptly notify City.

27. Sales Tax. The City qualifies as an exempt agency under the Texas Limited Sales, Excise and Use Tax Act (the “Tax Act”) and is not subject to any State or City sales taxes on materials incorporated into the project. Labor used in the performance of this contract is also not subject to State or City sales taxes. The City will provide an exemption certificate to the Contractor. The Contractor must have a sales tax permit issued by the Comptroller of Public Accounts and shall issue a resale certificate complying with the Tax Act, as amended, when purchasing said materials. The Contractor is responsible for any sales taxes applicable to equipment purchases, rentals, leases, consumable supplies which are not incorporated into the services to be provided under this Contract, tangible personal property purchased for use in the performance of this Contract and not completely consumed, or other taxable services used to perform this Contract, or other taxes required by law in connection with this Contract.

28. Compliance with Laws, Charter, Ordinances. Contractor, its agents, employees and subcontractors must comply with all applicable federal and state laws, the ordinances of the City of Fair Oaks Ranch, and with all applicable rules and regulations promulgated by local, state and national boards, bureaus and agencies. Contractor must obtain all necessary permits, bonds and licenses that are required in completing the work contracted for in this agreement.

29. Liquidated Damages. Contractor hereby acknowledges that the award of the contract includes the requirement to timely commence the work on the Project in accordance with the fully executed Contract. Contractor hereby further agrees to pay to City as liquidated damages the applicable sum quoted below, for each calendar day in excess of the time set forth for completion of the Project. Time of completion is of the essence for the Project.

For each day that any work shall remain uncompleted after the time specified in the Contract, or the increased time granted by the City, or as equitably increased by additional work or materials ordered after the Contract is executed, the sum per day given in the following schedule, unless otherwise specified in the special provisions, shall be deducted from the monies due from the City:

AMOUNT OF CONTRACT	AMOUNT OF LIQUIDATED DAMAGES
Less than \$25,000.00	\$100.00 Per Day
\$25,000.00 to \$99,999.99	\$150.00 Per Day
\$100,000.00 to \$499,999.99	\$200.00 Per Day
\$500,000.00 to \$1,000,000.00	\$250.00 Per Day
More than \$1,000,000.00 (sliding scale)	\$350 Per Day first 30 days; \$400 Per Day 31-60 days; \$500 Per Day 90 days and beyond

The sum of money thus deducted for such delay, failure or non-completion is not to be considered as a penalty, but shall be deemed, taken and treated as reasonable liquidated damages, per day that the default shall continue after the time stipulated in the Contract for completing the work. The said amounts are fixed and agreed upon because of the impracticability and extreme difficulty of fixing and ascertaining the actual damages that the City in such event would sustain; and said amounts are agreed to be the amounts of damages which the City would sustain and which shall be retained from the monies due, or that may become due, under the Contract; and if said monies be insufficient to cover the amount owing, then the surety shall pay any additional amounts due. Notwithstanding the foregoing, in the event that the actual damages incurred by the City exceed the amount of liquidated damages, the City shall be entitled to recover its actual damages.

30. Warranty

The Contractor shall provide a warranty covering defect of material and workmanship for one calendar year following final completion of the Project.

31. Retainage

For each progress payment made prior to Final Completion of the Work, the City may withhold retainage in the amount of 10%. Retainage will be released upon achievement of Final Completion and acceptance by the City.

EXECUTED on _____.

CITY:

CONTRACTOR:

By: _____

By: _____

Name: Scott M. Huizenga

Name: _____

Title: City Manager

Title: _____

ADDRESS FOR NOTICE:

CITY

CONTRACTOR

City of Fair Oaks Ranch
Attn: Scott M. Huizenga
7286 Dietz Elkhorn
Fair Oaks Ranch, TX 78015

Maguire Iron, Inc.
1610 North Minnesota Ave.
Sioux Falls, SD 57104

Exhibit "A"

SCOPE OF SERVICES

October 29, 2024

Clayton Hoelscher
Procurement Manager
City of Fair Oaks Ranch

RE: Fair Oaks Ranch, City of - NEW Construction 500,000 Ground Storage

Mr. Hoelscher,

Maguire Iron, Inc. is pleased to offer a pricing proposal for the aforementioned project for steel erection by June of 2026 and final completion and acceptance of the tank by August of 2026. This tentative construction schedule is dependent upon surveys being completed and permits being acquired.

Tank Information – Welded Steel:

- Tank Descriptions: 500,000 Gallon – 68’6” Diameter x 20’8” Tall Ground Storage Tank
- Overflow height to match existing ground storage tank (GST)

Tank Information:

- Sitework
 - Conduit buried from tank to control building for SCADA and Flow Meter.
 - Flow Meter (matching existing tank unit) on inlet piping of new tank.
 - Hydraulically tie tanks together via atmospheric piping with valves adjacent to each tank.
 - Discharge piping (buried) to tie into existing discharge adjacent to driveway and control building.
 - Tree removal or trimming of 2 trees where new tank will reside and 1 tree in area to be used as a lay down/fabrication area.
 - Final grade.
 - Replacement of damaged sod after construction.
 -
- Foundation
 - Geotechnical Investigation REQUIRED (if new tank site)
- Tank Accessories
 - Inlet Dia.: 12”
 - Outlet Dia.: 12”
 - Overflow Dia.: 12”
 - Drain Dia.: 12”
 - Roof Handrail
 - 24” Dia. Roof Vent (2 Required)
 - 36” Dia. Roof Hatch
 - 36” Dia. Shell/Painters Hatch

- Ladders
 - Interior Tank Ladder
 - Exterior Tank Ladder
 - Lader Gate (Anti – Climb)
- Fall Protection System for Ladder
 - Cable system w/ 1 harness
- Tank Paint
 - Manufacturer: Sherwin-Williams
 - Interior Wet – to comply with AWWA D102-21 & NSF 61-600
 - Zinc/Epoxy per AWWA D102-21 ICS #6
 - Exterior
 - Zinc/Epoxy/Urethane per AWWA D102-21 OCS #6
- Tank Disinfection
- Tank Warranty – 3 Year

Items Included:

- Standard concrete foundation including 24” mow strip to match existing tank.
- Fabrication, field erecting, and painting of the ground storage tank.
- 150 lineal feet. of piping & valves to connect new tank to the system.
- Electrical conduit from control building to run SCADA.
- All appurtenances will comply with AWWA D100 and OSHA standards.
- Weld inspection per AWWA D100.
- Work days/Hours: 6 days per week/9 hours per day.
- Site restoration/Reseeding.

Items not included:

- Site clearing or extensive site work. Maguire needs adequate access to site.
- Any sitework not listed above.
- Electrical.
- SCADA/Telemetry.
- Containment.
- Fencing.
- Permits.
- Special or 3rd Party Inspections.

We would further state that a final inspection of the tank will be done by a representative of the owner and that welding inspection requirements will not exceed the normal type of inspection associated with AWWA D100 and AWWA D102 standards.

Totals for Design/Drawings, Construction & Painting of Tank = \$1,425,000

Based on the accelerated schedule of this project and multiple unknown factors existing such as unfinalized geotechnical survey and report as well as outstanding permits from Texas DEQ, Maguire reserves the right to submit change orders to add, modify or delete services from this contract should circumstances deem it necessary to do so. Maguire is requesting a pay schedule to be submitted at the following intervals:

- 20% - Down Payment – Due Upon Execution of the Contract
- 15% - Due Upon Signing of Approved Drawings
- 15% - Due 90 Post Signing of Drawings
- 30% - Due Prior to Shipment of Steel to job site
- 10% - Due Upon Erection of Tank
- 10% - Due Upon Final Delivery of Tank (but no later than 45 days from disinfection/filling)

Maguire is pleased to provide this pricing and looks forward to working with the City of Fair Oaks Ranch in completing the design, fabrication, and constructing this tank. Please let me know if you have any additional questions or concerns.

Sincerely yours,

Jay Simpkins
Senior Estimator

Approved By:

_____ - City of Fair Oaks Ranch

_____ - Date

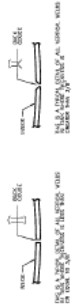
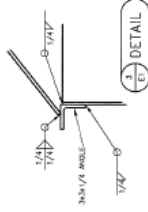
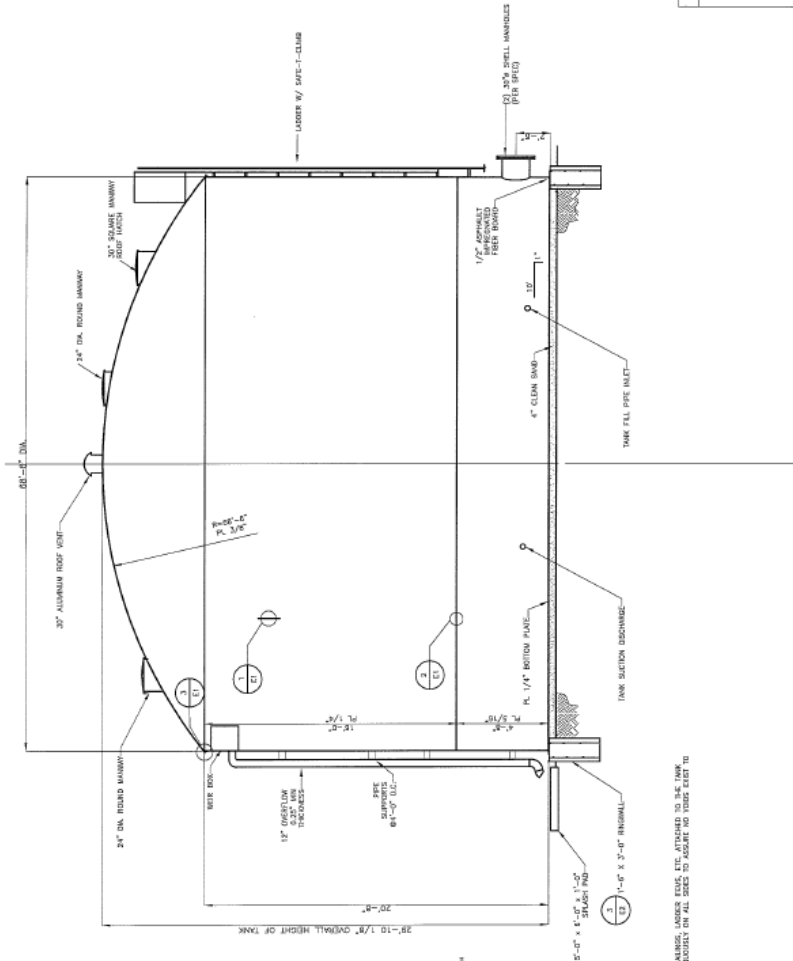
_____ - Maguire Tank

_____ - Date

TANK DESIGN DATA

CAPACITY 500,000 GALLONS
 DESIGN WIND LOAD 118 MPH
 SEISMIC WIND LOAD 25 PSF
 STRAND ANKA D100-21
 MATERIALS A-36 U.S.C.
 ALLOWANCE NONE
 LIFTING AND CONTROL PER PROJECT SPECIFICATIONS
 INSULATION PER ANKA D100-21
 PAINTING AND PROTECTIVE COATINGS PER PROJECT SPECIFICATIONS
 INSULATION PER PROJECT SPECIFICATIONS
 TESTING PER ANKA D100-21

ALL METAL BRACKETS, FLANGES, UNDES, ETC. ATTACHED TO THE TANK SHALL BE WELDED TO THE TANK AND SHALL BE PROPERLY WELDED TO THE TANK.



1. ALL METAL BRACKETS, FLANGES, UNDES, ETC. ATTACHED TO THE TANK SHALL BE WELDED TO THE TANK AND SHALL BE PROPERLY WELDED TO THE TANK.

CONTRACTOR'S CERTIFICATION:
 Contractor has determined or verified all quantities, dimensions, field construction criteria, materials, cutting numbers, and other information shown on this drawing. The contractor certifies that the work shown on this drawing complies with the requirements of the contract documents, and assumes full responsibility for so doing.
 MAGUIRE IRON, INC.
 Date _____

STRUCTURAL DESIGN
 DATE: 01-09-24
 DRAWN BY: J. M. MCGUIRE
 CHECKED BY: J. M. MCGUIRE
 SCALE: 1/8\"/>

TANK ELEVATION AND DETAILS
 68' B X 20' B² OSR
 FAIR OAKS RANCH, TX
 2023-761E1

River Valley Maguire Iron, Inc.
 1111 S. 20th St.
 SOUX FALLS, SOUTH DAKOTA
 605-887-1100
 Fax: 605-887-1101
 Web: www.river-valley.com

NO.	DATE	BY	REVISION
1	01-09-24	JMM	ISSUED FOR PERMIT
2	01-09-24	JMM	ISSUED FOR PERMIT

DATE: 01-09-24
 DRAWN BY: J. M. MCGUIRE
 CHECKED BY: J. M. MCGUIRE
 SCALE: 1/8\"/>

Exhibit "B"

REQUIREMENTS FOR ALL INSURANCE DOCUMENTS

The Contractor shall comply with each and every condition contained herein. The Contractor shall provide and maintain the minimum insurance coverage set forth below during the term of its agreement with the City. Any Subcontractor(s) hired by the Contractor shall maintain insurance coverage equal to that required of the Contractor. It is the responsibility of the Contractor to assure compliance with this provision. The City of Fair Oaks Ranch accepts no responsibility arising from the conduct, or lack of conduct, of the Subcontractor.

INSTRUCTIONS FOR COMPLETION OF INSURANCE DOCUMENT

With reference to the foregoing insurance requirements, Contractor shall specifically endorse applicable insurance policies as follows:

1. The City of Fair Oaks Ranch shall be named as an additional insured with respect to General Liability and Automobile Liability **on a separate endorsement.**
2. A waiver of subrogation in favor of The City of Fair Oaks Ranch shall be contained in the Workers Compensation and all liability policies and must be provided **on a separate endorsement.**
3. All insurance policies shall be endorsed to the effect that The City of Fair Oaks Ranch will receive at least thirty (30) days written notice prior to cancellation or non-renewal of the insurance.
4. All insurance policies, which name The City of Fair Oaks Ranch as an additional insured, must be endorsed to read as primary and non-contributory coverage regardless of the application of other insurance.
5. **Chapter 1811 of the Texas Insurance Code, Senate Bill 425 82(R) of 2011, states that the above endorsements cannot be on the certificate of insurance. Separate endorsements must be provided for each of the above.**
6. All insurance policies shall be endorsed to require the insurer to immediately notify The City of Fair Oaks Ranch of any material change in the insurance coverage.
7. All liability policies shall contain no cross-liability exclusions or insured versus insured restrictions.
8. Required limits may be satisfied by any combination of primary and umbrella liability insurances.
9. Contractor may maintain reasonable and customary deductibles, subject to approval by The City of Fair Oaks Ranch.
10. Insurance must be purchased from insurers having a minimum AmBest rating of B+.
11. All insurance must be written on forms filed with and approved by the Texas Department of Insurance. (ACORD 25 2010/05). Coverage must be written on an occurrence form.
12. Contractual Liability must be maintained covering the Contractors obligations contained in the contract. Certificates of Insurance shall be prepared and executed by the insurance company or its authorized agent and shall contain provisions

- representing and warranting all endorsements and insurance coverages according to requirements and instructions contained herein.
13. Upon request, Contractor shall furnish The City of Fair Oaks Ranch with certified copies of all insurance policies.
 14. A valid certificate of insurance verifying each of the coverages required above shall be issued directly to the City of Fair Oaks Ranch within ten (10) business days after contract award and prior to starting any work by the successful Contractor's insurance agent of record or insurance company. Also, prior to the start of any work and at the same time that the Certificate of Insurance is issued and sent to the City of Fair Oaks Ranch, all required endorsements identified in sections A, B, C and D, above shall be sent to the City of Fair Oaks Ranch. The certificate of insurance and endorsements shall be sent to:

City of Fair Oaks Ranch
Attn: Clayton Hoelscher, Procurement Manager
Email: choelscher@fairoaksranchtx.org
7286 Dietz Elkhorn
Fair Oaks Ranch, Texas 78015

Exhibit "C"
EVIDENCE OF INSURANCE



TECHNICAL MEMORANDUM

TO: Grant Watanabe, PE, CFM – Director of Public Works & Engineering Services City of Fair Oaks Ranch

FROM: Joel D. Valdez, PE, CFM – Senior Project Engineer - K Friese & Associates

RE: **500K GROUND STORAGE TANK – FAIR OAKS – TANK BUDGET RESEARCH**

DATE: October 17, 2024

INTRODUCTION

Background

The City of Fair Oaks Ranch (the City) is planning to install a new 500,000-gallon ground storage tank (GST) at Water Plant #5 near Keeneland and Jodhpur drives in far northwest Bexar County. K Friese and Associates, Inc. (KFA) was tasked with researching GST installation costs and comparing costs to the Maguire Iron, Inc. (Maguire) Final Project Price Proposal dated January 26, 2024. Others will design and construct the pump station and electrical improvements in a separate phase.

KFA contacted ground storage tank vendors and contractors, performed a review of available data, and obtained recent bids for similar work. Below is a summary of the findings.

RECENT BID TABS

KFA reviewed recent bid tabulations from CivCast posted for the following counties: Bexar, Comal, Guadalupe, Bandera, and Kendall. Only one recent bid tab of comparable size was found. Therefore, we expanded the search for similar-sized tanks across Texas and found a few more bids. We have compared the Maguire proposal with the bid tabulations found in Table 1 based on price per gallon.

Table 1 - Bid Comparison Analysis

Entity and Project Name	Bid Opening Date	Tank Type	Bid Amount ^{1,2}	Tank Size (gallons)	Price per Gallon ³
SAWS Meghan Pump Station	11/2023	Prestressed Concrete	2,200,904	500K	\$4.40/Gal
Northeast Texas MWD Base Bid	03/2022	Welded Steel	\$1,175,600	500K	\$2.36/Gal (2.59/Gal)
Northeast Texas MWD Alt Bid	03/2022	Prestressed Concrete	\$1,237,400	500k	\$3.86/Gal (\$4.23/Gal)
City of Glen Rose	07/2024	Welded Steel	\$706,500	250K	\$2.83/Gal
City of Fair Oaks Ranch Maguire Proposal	01/2024	Welded Steel	1,425,000	500k	\$2.85/Gal

Notes:

- 1) Only Applicable bid items were used for the bid comparison analysis, which included tank, tank foundation, site grading, restoration, and yard piping.
- 2) When more than one bid was present in the bid tabulation, the Low Apparent Bid or the awarded bidder was used for the bid comparison analysis.
- 3) Price adjusted for inflation shown in parenthesis, using the Bureau of Labor Statistics Website. <https://data.bls.gov/cgi-bin/cpicalc.pl>



As part of our additional research, KFA coordinated with Preload's Vice President of Sales for a cost estimate to provide a 500,000-gallon wire-wound prestressed concrete GST. Preload stated that a general number for this locale would be a rough order of magnitude (ROM) of \$1,000,000 for the floor, walls, and dome. This assumes a standard 4-inch floor and does not include site work, subgrade preparation, or electrical.

Preload added that a concrete GST project of similar size, with Preload serving as the prime contractor and with adequate soils, would have a ROM of \$1,750,000 for the entire project (\$3.50/Gal). This cost would include site work and subgrade preparation, structural fill, backfilling, the foundation, underlap piping and encasements, piping, and valves under and outside the tank. This assumes there is adequate space for construction. KFA did not share the space and height restrictions with Preload, and we anticipate that the overall ROM would be higher.

CONCLUSION / RECOMMENDATIONS

Overall, KFA found that the proposal from Maguire for \$1,425,000 (\$2.85/Gal) is a competitive bid compared to recent bid tabs for similar-sized projects and significantly lower than the initial cost of concrete tanks. Please note that KFA did not take the life cycle costs into account for the project. By utilizing The Interlocal Purchasing System (TIPS), the City saves approximately \$300,000 on design fees and time.



**CITY COUNCIL CONSENT ITEM
CITY OF FAIR OAKS RANCH, TEXAS**

AGENDA TOPIC: Approval of Council Member Rhoden’s absence from the November 21, 2024 Regular City Council meeting
DATE: November 21, 2024
DEPARTMENT: City Council
PRESENTED BY: Consent Item –Keith Rhoden, Council Member, Place 2

INTRODUCTION/BACKGROUND:

Council Member Rhoden requests approval from missing the November 21, 2024 Regular City Council meeting due to previously scheduled obligation.

POLICY ANALYSIS/BENEFIT(S) TO CITIZENS:

Complies with Section 3.09 of the Home Rule Charter.

LONGTERM FINANCIAL & BUDGETARY IMPACT:

N/A

LEGAL ANALYSIS:

N/A

RECOMMENDATION/PROPOSED MOTION:

Consent Item – I move to approve Council Member Rhoden’s absence from the November 21, 2024 Regular City Council meeting.



**CITY COUNCIL CONSIDERATION ITEM
CITY OF FAIR OAKS RANCH, TEXAS**

AGENDA TOPIC: Consideration and possible action approving a resolution authorizing the execution of an Interlocal Agreement with Bexar County for the Old Fredericksburg Road Water Line Replacement Project

DATE: November 21, 2024

DEPARTMENT: Public Works

PRESENTED BY: Grant Watanabe, P.E., CFM, Director of Public Works and Engineering Services

INTRODUCTION/BACKGROUND:

The Old Fredericksburg Road Water Line Replacement Project (CIP #21W) replaces approximately 2,700 linear feet of eight-inch water main along Old Fredericksburg Road between Woodland Green and Tawny Way. Main breaks in this section have become more frequent and expensive to repair due to traffic control requirements.

In November 2021, the City executed a professional services agreement with K Friese & Associates, Inc. for engineering services for the project.

In early 2022, staff started coordination with Bexar County Public Works to joint bid with their Old Fredericksburg Road Project which will reconstruct approximately 1.67 miles of Old Fredericksburg Road. SAWS would also decide to joint bid the relocation and upgrade of their water and sewer mains within the project limits. Extensive coordination between the County’s proposed road and drainage improvements, and joint bid and non-joint bid utilities occurred through early 2024.

On October 4, 2024, Bexar County posted an invitation for bid for the joint project. Bids were received on November 8, 2024, and the County determined the lowest responsible bidder to be the J3 Company, LLC. The cost for the City’s water line replacement is \$537,575.00.

A copy of the Interlocal Agreement (ILA) is attached as **Exhibit A**. The ILA establishes the rights and obligations of the City and County regarding project management, contract management, funding, construction oversight, inspection and acceptance of improvements.

POLICY ANALYSIS/BENEFIT(S) TO CITIZENS:

- Supports Priority 3.1 of the Strategic Action Plan to Enhance and Ensure Continuity of Reliable Water Resources in Accordance with CCN Obligations
- Joint-bidding with Bexar County and other utilities improves coordination, sequencing of work, and reduces project costs and impact to nearby residents
- Complies with Competitive Procurement Requirements

LONGTERM FINANCIAL & BUDGETARY IMPACT:

The FY 2024-25 budget includes \$270,400 for this project. Prior year appropriations in the amount of \$261,181 are available. A proposed budget amendment to increase the funding for this project follows this agenda item.

LEGAL ANALYSIS:

Legal has reviewed the resolution and ILA and approved it as to form.

RECOMMENDATION/PROPOSED MOTION:

I move to approve a resolution authorizing the execution of an Interlocal Agreement with Bexar County for the Old Fredericksburg Road Water Line Replacement Project.

A RESOLUTION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FAIR OAKS RANCH, TEXAS AUTHORIZING THE EXECUTION OF AN INTERLOCAL AGREEMENT WITH BEXAR COUNTY FOR THE OLD FREDERICKSBURG ROAD WATER LINE REPLACEMENT PROJECT, EXPENDITURE OF THE REQUIRED FUNDS, AND EXECUTION OF ALL APPLICABLE DOCUMENTS BY THE CITY MANAGER

WHEREAS, the Interlocal Cooperation Act gives local governments the authority to contract with other governmental entities to increase efficiency and effectiveness, and

WHEREAS, the City has planned and budgeted for the Old Fredericksburg Road Water Line Replacement Project (CIP #21W) which will replace approximately 2,700 linear feet of water main along Old Fredericksburg Road, and

WHEREAS, Bexar County has planned and budgeted for the Old Fredericksburg Road Project which will reconstruct approximately 1.67 miles of Old Fredericksburg Road, and

WHEREAS, the City elected to joint bid with Bexar County to improve construction coordination, sequencing of work, reduce impact to nearby residents, and increase efficiency and effectiveness, and

WHEREAS, Bexar County released an invitation for bid for the project in October 2024 and has determined J3 Company, LLC to be lowest responsible bidder, and

WHEREAS, the cost for the City’s water line replacement is \$537,575.00, and

WHEREAS, the City Council deems it necessary to execute an interlocal agreement with Bexar County to establish the rights and obligations of the parties with regard to project management, contract management, funding, construction oversight, inspection and acceptance of improvements.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAIR OAKS RANCH, TEXAS:

Section 1 The City Council hereby authorizes the City Manager to execute an agreement with Bexar County for the Old Fredericksburg Road Water Line Replacement Project, to expend required funds up to \$535,575.00, with a 5% contingency in the amount of \$26,878.75, for a total not to exceed \$564,453.75, and to execute any and all applicable documents to effectuate this resolution.

Section 2. That the recitals contained in the preamble hereto are hereby found to be true and such recitals are hereby made a part of this resolution for all purposes and are adopted as a part of the judgment and findings of the Council.

Section3. If any provision of this resolution or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this resolution and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City Council hereby declares that this resolution would have been enacted without such invalid provision.

Section 4. That it is officially found, determined, and declared that the meeting at which this resolution is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this resolution, was given, all as required by Chapter 551, as amended, Texas Government Code.

Section 5. All resolutions or parts thereof, which are in conflict or inconsistent with any provision of this resolution are hereby repealed to the extent of such conflict, and the provision of this resolution shall be and remain controlling as to the matters resolved herein.

Section 6. This resolution shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

Section 7. This resolution shall be in force and effect from and after its final passage, and it is so resolved.

PASSED, APPROVED, and ADOPTED on this 21st day of November 2024.

Gregory C. Maxton, Mayor

ATTEST:

APPROVED AS TO FORM:

Christina Picioccio, TRMC
City Secretary

Denton Navarro Rodriguez Bernal Santee & Zech
P.C., City Attorney

STATE OF TEXAS

§ INTERLOCAL AGREEMENT FOR THE
§ OLD FREDERICKSBURG ROAD
§ UTILITY RELOCATION PROJECT

COUNTY OF BEXAR

THIS INTERLOCAL AGREEMENT FOR THE OLD FREDERICKSBURG ROAD UTILITY RELOCATION PROJECT (hereafter referred to as “Agreement”) is effective as of the _____ day of _____, 2024 (hereafter referred to as “Effective Date”), and entered into by and between the **CITY OF FAIR OAKS RANCH**, a Texas Home Rule municipality (the “City”), and the **COUNTY OF BEXAR** (the “County”), a political subdivision of the State of Texas, acting by and through its elected officials, hereto duly authorized. City and County will be referred to herein individually as a “Party” or collectively as the “Parties.”

INTRODUCTION

A. A portion of Old Fredericksburg Road is located in the northern part of the County between Ralph Fair Road (i.e., the southern-most point of the Project Area and Old Fredericksburg Road ties back into the Interstate IH10 frontage / access road (i.e., the northern-most point of the Project Area) (collectively, the “Roadway”), all of which is situated within the County’s right-of-way.

B. County has plans to reconstruct the Roadway with numerous operational improvements including, without limitation, improving the drainage associated with the Roadway, a general depiction of which is shown on **Exhibit C**, a copy of which is attached to this Agreement or incorporated by reference herein and made a part hereof for all purposes (the “Project Area”).

C. There is an existing raw water main structure (including its related fixtures, equipment, and other improvements) that is: (1) owned, controlled, and maintained by the City, and (2) located within the Project Area although the structure is not physically located in either the City’s own city limits or its extraterritorial jurisdiction (collectively, the “City Utility”).

D. County has prepared or commissioned the preparation of an engineering design in connection with the proposed reconstruction of the Roadway (the “Engineering Design”) which will include, among other improvements, the need to dismantle/disassemble, relocate, and re-install the City Utility within the Project Area (collectively, the “CITY Utility Relocation Work”).

E. The Engineering Design: (1) includes the Bexar County Public Works Specifications for the Project (i.e., known as the “**Old Fredericksburg Rd. Waterline Replacement Project**” (and referred to by City as “CIP# 21W”), a copy of such specifications being referred hereto as **Exhibit A** and incorporated herein may be located in digital format at “<https://www.fairoaksranchtx.org/DocumentCenter/View/5511/Construction-Standard-Specifications-for-Water-and-Sanitary-Sewer-Construction>,” and (2) recommends that County contract for the performance of the CITY Utility Relocation Work, which would include the dismantling/disassembly, removal, relocation, and re-installation of the existing City Utility to a new location also within the Project Area (collectively, the “Project”).

F. Under Chapter 791, Texas Government Code, the commissioners court of a Texas county may contract with a governmental unit, including a Texas municipality, to jointly construct or maintain improvements for the purpose of providing streets, roads, drainage, and other governmental functions in which the contracting parties are mutually interested.

EXHIBIT A

G. City and County have agreed to incorporate the Project into their respective approved 2022-23 public works project budgets.

H. Since County does not have fee interest or easement rights in the land or parcels of land upon which the City Utility is currently installed and maintained, City is willing to grant County all necessary rights, licenses, and privileges in the affected parcels of land and improvements for the sole purpose of undertaking the City Utility Relocation Work and completing the Project.

I. Upon Substantial Completion (as that particular phrase is defined in Section 5.04 of this Agreement) of the City Utility Relocation Work, City will provide funding for all future maintenance and repair of the City Utility (i.e., post-Substantial Completion of the Project) within the Project Area.

J. City supports County’s design and estimated cost assumptions associated with the City Utility Relocation Work and desires to enter into this Agreement with County in order to establish the rights and obligations of the Parties with regard to the final design, engineering, construction, operations, and maintenance of, as well as Project management for, the City Utility Relocation Work, and to establish the procedures for funding the City Utility Relocation Work, all in accordance with the applicable provisions contained in Chapter 791, Texas Government Code.

NOW, THEREFORE, in consideration of the mutual covenants and agreement stated herein, the receipt and sufficiency of which are hereby acknowledged, the Parties separately agree as follows:

ARTICLE 1

PURPOSE OF AGREEMENT; RETENTION OF CONTRACTOR; SCOPE OF CITY UTILITY RELOCATION WORK

- 1.01 The purpose of this Agreement is to establish the terms and conditions for: (a) performing, providing, and managing the labor, services, materials, and supplies associated with the City Utility Relocation Work and Project within the Project Area, including any construction disruption; and (b) funding the design, construction, and relocation costs associated with the City Utility Relocation Work and Project.
- 1.02 Immediately after tabulating all of the bids received for the City Utility Relocation Work, County will notify City, either digitally or in writing, of the name of the contractor selected by County for such work (the “Contractor”) and the associated bid amount.
- 1.03 County exercise commercially reasonable efforts in order to enforce all of its rights and remedies against the Contractor in connection with the City Utility Relocation Work and any associated construction-related contracts.
- 1.04 Subject to City both requesting and receiving County’s prior digital or written approval for such activity, County will allow City’s elected officials and designated employees, contractors, and consultants to access the Project Area for the sole purpose of: (a) observing and inspecting the City Utility Relocation Work, (b) determining if all such work within the Project Area is in conformity with the applicable plans, specifications, and special provisions and is in good working order, and (c) verifying all quantities of necessary equipment, supplies, and materials which will be or already have been incorporated into or otherwise used in connection with any of the City Utility Relocation Work.

All such City officials, employees, contractors, and consultant must comply with County’s applicable health and safety requirements at all times when accessing the Project Area. County reserves the right to remove any individual who fails or refuses to comply with such requirements for any reason.

ARTICLE 2
TERM

- 2.01 Except as otherwise provided herein, this Agreement will commence upon the execution date of the last signatory Party to this document. The performance period for this Agreement will begin not later than fifteen (15) days after the last signatory approves this Agreement and will end upon completion of all required City Utility Relocation Work as contemplated under both this Agreement and any applicable Change Orders.
- 2.02 The duty and obligation to: (a) undertake and complete the City Utility Relocation Work, and (b) enforce any applicable representations, warranties, guarantees, and covenants are County’s responsibilities and survives the expiration or early termination of this Agreement for a period of two (2) years after the effective date of such expiration or early termination.

ARTICLE 3
CITY’S FINANCIAL COMMITMENT; UTILITY RELOCATION CONTRIBUTION;
ADDITIONAL FUNDING

- 3.01 In connection with the City Utility Relocation Work, City agrees to pay County the amount of **FIVE HUNDRED THIRTY-SEVEN THOUSAND FIVE HUNDRED SEVENTY-FIVE DOLLARS AND ZERO CENTS (\$537,575.00)** in connection therewith within ten (10) days after the Effective Date (hereafter referred to as the “Initial Utility Relocation Contribution”). City will make such contribution either by certified check or via wire transfer (per the fund transfer instructions provided by the County’s Auditing Department).
- 3.02 If the bid for the Utility Relocation Work by the selected Contractor exceeds the Initial Utility Relocation Contribution, County will notify City, either digitally or in writing, of the overrun and will facilitate a meeting between the Contractor and City staff to discuss the reason for the overrun. If the City and Contractor agree that additional monies are required in excess of the Initial Utility Relocation Contribution, then: (a) County and Contractor must enter into a formal, written agreement (the “Initial Additional Funds Agreement”) which, at a minimum, sets forth the amount of additional monies to be paid by City and added to the Initial Utility Relocation Contribution (the “Initial Additional Funds” which, when deposited with the Initial Utility Relocation Contribution, will be referred to herein as the “Revised Utility Relocation Contribution”), and (b) City will promptly (i) provide County with a complete and accurate copy of the Initial Additional Funds Agreement, and (ii) pay the Initial Additional Funds to County within 15 days after receiving notice of such amount, unless further time is required for City Council action on behalf of City to appropriate funds therefore.

If necessary, County will also facilitate a meeting between the Contractor and City, after the award of the construction contract between County and Contractor, to determine if it is possible to negotiate change orders with Contractor to mitigate the amount of the Initial Utility Relocation Contribution.

- 3.03 Change Orders. (a) By City. If change orders are requested, or otherwise required, by City

or the City’s designated consultant in connection with any City Utility Relocation Contribution for any City Utility Relocation Work under this Agreement (each, a “Proposed City Change Order”), City will make a change order request and City staff or City’s designated consultant will prepare the Proposed City Change Order and submit it to County for further review and handling.

(b) By County. If County requires a change order that affects the City Utility Relocation Work (each, a “Proposed County Change Order”), County will prepare the Proposed County Change Order and submit it to City staff for City’s review and approval. City staff will use good faith efforts in order to respond to each Proposed County Change Order within five (5) business days after City’s staff’s receipt of such document, or such additional period of time as may be reasonably necessary under the circumstances based on the complexity of the Proposed County Change Order; *provided, however,* in no event will City’s deliberative process be allowed to jeopardize County’s timely completion of the City Utility Relocation Work, as determined by County. City staff is under no obligation to approve of any Proposed County Change Orders, and in no event will City be responsible for costs or expenses under Proposed County Change Orders that are not approved by City staff, either digitally or in writing. If a Proposed County Change Order results in total costs exceeding the Initial Utility Relocation Contribution, County will send copies of invoices covering the additional amounts authorized by a Proposed County Change Order that was previously approved by City staff, and City must pay County the additional amounts in such change order within fifteen (15) days, unless further time is required for City Council action of City to appropriate the additional funds therefore.

3.04 Possible Refund or Partial Refund of the Utility Relocation Contribution. If the aggregate cost of both performing and completing the City Utility Relocation Work is less than either the Initial Utility Relocation Contribution or the Revised Utility Relocation Contribution, whichever is applicable, County agrees to refund the overpayment to City, by check, within thirty (30) days of determination of same by the Bexar County Commissioners Court or the County’s Auditing Department, whichever has the appropriate authority. If City does not approve of the City Utility Relocation Work as outlined in the final construction documents, County must refund all of the Initial or Revised Utility Relocation Contribution, whichever is applicable, within thirty (30) days after County receives either digital or written notice of City’s final rejection of such documents for any reason.]

ARTICLE 4
OBLIGATIONS OF COUNTY

4.01 Pursuant to this Agreement, County must perform and provide each of the following duties and obligations in connection with the City Utility Relocation Work:

- a. Generally manage the construction of the Project and associated City Utility Relocation Work (subject to the City’s own or priority obligations and responsibilities contained in Article 5, below
- b. {Intentionally omitted.}
- c. Stage all construction and all necessary street closures during construction to minimize street closures.
- d. Maintain the Project Area both within and in close proximity to the City Utility Relocation

EXHIBIT A

Work, using reasonable efforts in order to keep the area free and clear of trash, construction debris, and other materials, supplies and items (including, without limitation, construction-related vehicles and earth-moving equipment) so as to not unnecessarily impede roadway traffic or pollute, contaminate, trespass upon, or unnecessarily disturb the operation, use, or enjoyment of any tracts of land which are located adjacent to the City Utility Relocation Work; City will be solely responsible for the care, maintenance, clean-up, and associated operating expenses for such City Utility Relocation Work during the Project.

- e. Perform regular site maintenance of the Project Area in accordance with the applicable permit(s).
- f. Provide timely review and approval of final design and construction contract documents for the City Utility Relocation Work.
- g. Obtain warranties from third parties associated with all work, services, materials, and supplies performed or provided in connection with the City Utility Relocation Work, and promptly enforce each of those warranties on behalf of the Parties, if and when necessary or appropriate.

ARTICLE 5
OBLIGATIONS OF CITY

- 5.01 City agrees to accept full responsibility for inspection of the City Utility’s relocation and acceptance of work performed as City-related work and Project-related tasks including, without limitation, coordination of and meetings that are associated with such work and tasks. [NOTE: Final construction documents for the Project and associated City Utility Relocation Work will be provided to City for its review and written approval.]
- 5.02 City must provide its own design professional for the City Utility Relocation Work whose duties must include providing detailed design documents and construction phase services, so long as there are no substantial changes to the final construction documents. [NOTE: County will allow the design professional to attend any meetings, inspect the City Utility Relocation Work (as permitted per §1.04), and participate in the Project as needed. If substantial changes are approved by City and County as contemplated under this Agreement, City’s design professional will not provide the detailed design, revised permitting services, nor construction phase services for the modified design. All substantial changes in connection with the City Utility Relocation Work will be designed and signed and sealed by City’s design professional. All applicable permit modifications will be developed and submitted to the appropriate agencies for review by County’s design professional and all construction phase services associated with the City Utility Relocation Work will be performed or provided by County’s design professional.]
- 5.03 City understands that delay of a response to any Request for Information by the Contractor regarding: (a) any portion of the City Utility Relocation Work, (b) the City Utility, (c) a Proposed City Change Order, or (d) a Proposed County Change Order, can cause delay in the City Utility Relocation Work. In such cases, City is responsible for promptly notifying and coordinating with the County Project Manager and Inspector, either digitally or in writing.
- 5.04 It is City’s responsibility to provide approved scratch sheet and signed pay app to the County Project Manager in order for County to make payments to the Contractor in a timely manner.

EXHIBIT A

5.05 Following Substantial Completion of the City Utility Relocation Work, City will be responsible for all costs associated with operating and maintaining the City Utility in its new location. For the purposes of this Agreement, the phrase “Substantial Completion” means the date, certified by County, County’s design professional, and City (including City’s designated design professional, if any) that the Contractor has reached that stage of completion when City and County accept the City Utility Relocation Work and the operation of the City Utility (as relocated) for its intended purposes.

ARTICLE 6
DESIGNATION OF REPRESENTATIVES

6.01 City hereby appoints its Director of Public Works Department, or his/her designee, (hereafter referred to as “City Project Manager”), as its designated representative under this Agreement. The City Project Manager will be the County’s and Contractor’s primary point of contact for City in connection with: (a) any portion of the City Utility Relocation Work, (b) the City Utility, (c) a Proposed City Change Order, (d) a Proposed County Change Order, or (e) any questions or concerns about this Agreement, the Initial or Revised Utility Relocation Contribution, or any Initial Additional Funds.

6.02 County hereby appoints the Director of the Public Works Department, or his/her designee, (hereafter referred to as “County Project Manager”), as its designated representative under this Agreement. The County Project Manager will be the City’s primary point of contact for County in connection with: (a) any portion of the City Utility Relocation Work, (b) a Proposed County Change Order, or (c) any questions or concerns about this Agreement, the Initial or Revised Utility Relocation Contribution, or any Initial Additional Funds.

ARTICLE 7
COUNTY’S RIGHTS UNDER THIRD PARTY CONTRACTS

7.01 City agrees that County will have the authority to contract on behalf of the Parties for all labor, services, supplies, and materials which are necessary for the construction and completion of the City Utility Relocation Work.

7.02 Subject to any applicable confidentiality terms and conditions and the applicable provisions of Chapter 552, Texas Government Code, upon the County Project Manager’s receipt of any digital or written request, County will provide the City Project Manager with a fully-executed copy of each contract entered into by County in connection with any part of the City Utility Relocation Work.

7.03 In all labor, services, supply, and material-related contracts which have been entered into in connection with any of the City Utility Relocation Work and in which City has a financial obligation (either directly or indirectly), County will exercise reasonable efforts in order to include terms and conditions which reflect each of the following:

- a. With regard to insurance coverage, County will require all consultants, sub-consultants, contractors, subcontractors, and suppliers to maintain the insurance coverage limits set out in the written notice to City’s Risk Manager. Both City and County must be named as an additional insured on all applicable policies and will be entitled to make claims, to the extent of the City’s and County’s respect interests in the City Utility Relocation Work, under all

Exhibit A

insurance coverage. Prior to the commencement of any such work by any service provider, supplier, vendor, or contractor either under or in connection with this Agreement and the City Utility Relocation Work, County will, upon any digital or written request, provide City’s Risk Manager with copies of the completed Certificates of Insurance, which Certificates must be completed by an agent authorized to bind the named underwriters and their companies to the coverage limits and termination provisions shown thereon.

City reserves the right to: (i) review the insurance requirements during the effective period of this Agreement, including any extension or renewal hereof, and (ii) modify the insurance coverage and their limits when deemed necessary and prudent by City’s Risk Manager, based upon changes in applicable statutory law, court decisions, or specific circumstances regarding increased risk surrounding this Agreement. County will exercise reasonable efforts to prohibit or restrict any modifications by any such any service provider, supplier, vendor, or contractor (or its respective insurer or insurance underwriter) whereupon City may incur increased risks in connection with the City Utility Relocation Work.

- b. County will exercise reasonable efforts to require all applicable contractors, service providers, and suppliers including, without limitation, all of their respective, sub-consultants and subcontractors, to maintain statutory worker’s compensation insurance for all of their employees, with a waiver of subrogation in favor of both City and County.
- c. County will also exercise reasonable efforts to in each of its contracts for labor, services, supplies, and materials that the contracting parties, along with all applicable sub-consultants and subcontractors, be required to indemnify and defend (upon any written request), the County, the City, their respective elected officials, employees, and agents, from and against any claim submitted or lawsuit filed by any third party in connection with any such labor, services, supplies, or materials, as allowed by applicable federal or Texas law.
- d. County will require all applicable consultants, sub-consultants, contractors, and subcontractors to provide all statutorily-required payment and performance bonds at no additional cost to the Parties. With respect to any applicable labor or services to be performed or provided in connection with any City Utility Relocation Work for which one or more performance bonds is not statutorily required, County will determine, in its sole discretion, on whether or not to require one or more performance bonds.
- e. County will also exercise reasonable efforts to state in all such agreements with third-parties addressed or referenced in this Article 7 that City is a third-party beneficiary to that particular agreement.

ARTICLE 8
PROJECT MANAGEMENT DURING CONSTRUCTION

8.01 County will manage, oversee, administer, and carry out all (or arrange for the management, oversight, administration, and completion) of the City Utility Relocation Work and related activities and services required for its completion to ensure that the Project is constructed, equipped, furnished, and completed with new materials in a good and workmanlike manner and in accordance with the terms of this Agreement and the applicable design and construction documents.

8.02 County will enforce substantial compliance with the terms of the agreements with the contractors

and subcontractors and require that the City Utility Relocation Work continuously and diligently be performed to achieve Substantial Completion on or before the scheduled completion date set out in the proposed schedule for such work (the “Proposed Schedule”), a copy of such Proposed Schedule being attached hereto as **Exhibit B** and made a part hereof.

- 8.03 Upon approval of this Agreement by the governing bodies of the Parties, the Parties’ respective designated personnel will schedule a meeting to finalize the team structure and develop the procedures and processes necessary to coordinate design and construction in accordance with the standard business practices of those disciplines.
- 8.04 The County Project Manager will provide either a digital or written notice to the City Project Manager a minimum of ten (10) business days prior to the issuance of a Notice to Proceed for the start of construction on the City Utility Relocation Work. The County Project Manager will also provide the City Project Manager with either a digital or written notice a minimum of five (5) business days prior to any necessary street or sidewalk closures.
- 8.05 In addition to the general notice requirements contained in Article 17, below, County will promptly furnish the City Project Manager with copies of all legal notices received by County affecting any of the City Utility Relocation Work including, without limitation, notices from applicable governmental authorities having jurisdiction, and notices from any person or entity claiming default in any payment obligation and any other notice not of a routine nature. County will also give written notice under Article 17, herein, of any claim, suit, proceeding, or action that is initiated or threatened in connection with the City Utility Relocation Work or against City and/or County in connection with City Utility Relocation Work.
- 8.06 For any “Environmental Event” (as that particular phrase is defined in the second sentence of this Section 8.06) within the Project Area that is either caused by, or at the direction of, either any City or County employee, contractor, subcontractor, consultant, sub-consultant, agent, or representative, the Party which employed or retained the individual, firm, or business who caused the Environmental Event will be liable for paying any damage, cost, or expense associated with such. For the purposes of this Agreement, the phrase “Environmental Event” means any spill, discharge, leakage, pumpage, drainage, pourage, emission, emptying, injecting, dumping, disposing, or other release of a hazardous material (as that particular phrase is generally used or understood under any applicable federal or state law) which may cause a threat or actual injury to human health or the environment.
- 8.07 Within thirty (30) business days following Substantial Completion of the City Utility Relocation Work, County will:
- a. notify City, either digitally or in writing, of such Substantial Completion, whereupon City may inspect the completed City Utility Relocation Work to determine if such work has been completed in a satisfactory and workmanlike manner and substantially completed in accordance with the plans and specifications for such work;
 - b. submit copies of all permits and inspection reports associated with the City Utility Relocation Work and, if applicable, obtain a Final Acceptance Letter and submit a copy of each of these documents to the City Project Manager; and
 - c. submit “record” drawings to City of the completed City Utility Relocation Work, along with copies of all applicable warranties and operations documents.

EXHIBIT A

- 8.08 Both City and County will participate in a walk-through at the point of Substantial Completion of the City Utility Relocation Work to identify any punch list items. County will supervise and coordinate the completion of any applicable punch list items and warranty work. Designated representatives for both Parties will also be invited and allowed to participate in a final walk-through to determine whether all punch list items have been resolved.
- 8.09 For information purposes, County will provide the City Project Manager, as and when available, any updated or revised schedule for permitting, design, and construction of the City Utility Relocation Work. Upon any digital or written request by City, County will furnish City with copy of said schedule when revised from time to time throughout the duration of the work. County will exercise reasonable efforts to ensure that such schedule(s) establish(es) a date for the Substantial Completion of each phase, in sufficient detail, to allow City to monitor the progress of the construction of the City Utility Relocation Work.
- 8.10 Within one hundred eighty (180) days after final completion of the City Utility Relocation Work, County and City will work together, as necessary, or appropriate in order to prepare and deliver to the City Project Manager a final construction report which must set out the total costs incurred in connection with those portions of the City Utility Relocation Work for which both County and City made financial contributions.
- 8.11 County will maintain the books, records, and documents pertaining to those portions of the City Utility Relocation Work for which County and City have joint participation. City representatives will have access to and the right to examine same, upon reasonable, advance notice to the County Project Manager. County’s books, records, and documents relating to the City Utility Relocation Work will be maintained separately from other County projects so that an examination by City representatives will be limited to the documents for such work.

**ARTICLE 9
DEFAULT**

- 9.01 In the event of a material breach of this Agreement, the non-breaching Party must give the breaching Party either digital or written notice of such breach (the “Notice of Default”). At a minimum, any such Notice of Default must set forth, in detail, the nature of the known or alleged breach. The Party receiving the notice of breach has thirty (30) days after its receipt of such notice to cure the breach. If the breach is not corrected to the reasonable satisfaction of the non-breaching Party by the end of the applicable thirty (30) day cure period, the non-breaching Party may immediately terminate this Agreement by giving a written notice of termination to the breaching Party and seek to recover damages not to exceed the amount paid by the non-breaching Party for the Project.

**ARTICLE 10
EARLY TERMINATION FOR CONVENIENCE**

- 10.01 Whenever either Party, in its sole discretion, deems it to be in that Party’s best interest, it may terminate this Agreement early for convenience. Such termination will be effective thirty (30) days after the terminating Party delivers either a digital or written notice of early termination of convenience to the other Party. If the Agreement is terminated by a Party prior to completion of the construction of the City Utility Relocation Work, then after payment of any unpaid obligations for completed labor, services, supplies, and materials, County will refund to City any remaining portion

of the Initial or Revised Utility Relocation Contribution, whichever is applicable. The Parties will have no additional liability to one another for any early termination under this Article 10.

ARTICLE 11
PRIOR AGREEMENTS SUPERSEDED

11.01 This Agreement, including the exhibits which are either attached hereto or incorporated herein by reference, constitute the entire agreement of the Parties regarding the subject matter of this Agreement and supersede all previous agreements and understandings, whether written or oral, relating to such subject matter.

ARTICLE 12
ASSIGNMENT OR TRANSFER OF INTEREST

12.01 Neither Party may assign its rights, privileges, and obligations under this Agreement, in whole or in part, without the prior written consent of the other Party. Any attempt to assign without such approval will be *void ab initio*.

ARTICLE 13
LEGAL CONSTRUCTION

13.01 In case any one or more of the provisions contained in this Agreement will, for any reason, be held to be invalid, illegal, or unenforceable in any respect, such invalid, illegal, or unenforceable provision will not affect any other provision hereof and this Agreement must be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

ARTICLE 14
COMPLIANCE WITH LAWS AND ORDINANCES

14.01 Both Parties will comply with all applicable federal, Texas, and local laws and ordinances in connection with the City Utility Relocation Work and related labor and services performed, as well as materials and supplies provided, under this Agreement.

ARTICLE 15
TEXAS LAW TO APPLY; PROPER VENUE; NO ARBITRATION

15.01 This Agreement must be construed under and in accordance with the applicable laws of the State of Texas, and all obligations of the Parties created hereunder are performable in Bexar County, Texas. Any lawsuit brought by one Party against another in connection with this Agreement, or any portion of either the (a) City Utility Relocation Work, or (b) the Initial or Revised Utility Relocation Contribution (whichever is applicable), must be filed in either a federal or state court which is situated in Bexar County, Texas. **Under no circumstances will any claim, dispute, allegation, or lawsuit of any kind or nature whatsoever between the Parties hereunder be either submitted to or resolved through arbitration.**

**ARTICLE 16
AMENDMENT**

16.01 No amendment, modification, or alteration of the terms or conditions contained in this Agreement will be binding unless the same be in writing, dated subsequent to the date hereof, and be duly executed by the Parties.

**ARTICLE 17
NOTICES**

17.01 All notices required to be given under this Agreement must be in writing (except where digital notice is expressly permitted herein) and either be personally served against a written receipt therefore or given by certified mail or registered mail, return receipt requested, postage prepaid and addressed to the proper Party at the address which appears below, or at such other address as the Parties hereto may hereafter designate in accordance herewith, unless a provision of this Agreement designates another person or entity and provides a different business address for delivery. All notices given by mail will be deemed to have been given upon receipt and be deemed effective from such date.

If to County: Bexar County Judge
 Bexar County Commissioners Court
 100 Dolorosa, 10th Floor
 San Antonio, Texas 78205

With a copy to: Director of Public Works
 1948 Probandt Street
 San Antonio, Texas 78214

If to City: Scott Huizenga
 City of Fair Oaks Ranch
 7286 Dietz Elkhorn
 Fair Oaks Ranch, Texas 78015

**ARTICLE 18
FORCE MAJEURE**

18.01 Neither Party will be responsible to the other for any delay or lack of performance by such entity or any of its elected officials, agents or employees which result from acts beyond that entity’s reasonable control, including, without limitation, acts of God, strikes or other labor disturbances or delays by federal or state officials in issuing necessary regulatory approvals and/or licenses (each, a “Force Majeure Event”) but which were not caused by or arising out of the negligence or willful misconduct of the Party asserting inability to perform or delay in performance. In the event of any delay or failure excused by this Article 18: (a) the Party asserting or claiming a Force Majeure Event with respect to any of its respective duties or obligations under this Agreement, must give the other Party (i) prompt digital and written notice of the Force Majeure Event (which, at a minimum, must include a detailed description of such event to the extent then-known, and (ii) its known or estimated duration, and (b) the time of delivery or of performance will be extended for a reasonable time period to compensate for delay.

EXHIBIT A

ARTICLE 19
THIRD PARTY BENEFICIARY

19.01 City will be considered a third-party beneficiary under County’s contract with the Contractor for any portion of the City Utility Relocation Work; *provided, however,* that prior to final completion of such work (including the delivery and installation of all applicable materials and supplies), City will not enforce any remedies against the Contractor without the prior written consent of County, which consent may be withheld if County reasonably believes that enforcement would have an adverse effect on final completion of the City Utility Relocation Work. Prior to final completion of the City Utility Relocation Work, City will reasonably cooperate with County, as well as its designated representatives, in the prosecution of any action against the Contractor regarding the City Utility Relocation Work done by the Contractor or its subcontractors which County may reasonably determine to be necessary, to the extent consistent with the terms of the Project Contract Documents.

ARTICLE 20
CURRENT FUNDS

20.01 Each Party will only be required to pay for the performance of the applicable governmental functions or services which are covered under this Agreement out of current revenues available to the paying Party.

ARTICLE 21
SUBCONTRACTOR’S INSURANCE REQUIREMENTS; TEXAS TORT CLAIMS ACT

21.01 In all contracts entered into by County in connection with any City Utility Relocation Work, County will exercise reasonable efforts in order to include provisions reflecting each of the following:

(a) With regard to insurance coverage during the construction phase of the City Utility Relocation Work, County will require all of its designated consultants, contractors, subcontractors, and suppliers to maintain the insurance coverage limits which are sufficient to compensate County and City for their respective interests such work with regard to any liability a third party may have due to the services, equipment, or materials provided for the City Utility Relocation Work. City must be named as an additional insured on all such policies which are maintained by such designated consultants, contractors, subcontractors, and suppliers which the County is also named as an additional insured. Upon any digital or written request by City, County will provide the City Project Manager with copies of the completed Certificates of Insurance, which Certificates must be completed by an agent authorized to bind the named underwriters and their companies to the coverage limits and termination provisions shown thereon. City reserves the right to review the insurance requirements during the effective period of this Agreement, and any extension or renewal hereof, and to modify insurance coverage and limits when deemed necessary and prudent by City’s designated Risk Manager based upon changes in applicable statutory law or court decisions. County will not allow any modifications to the insurance coverage through which City may incur increased risks.

EXHIBIT A

(b) County will require all of its affected contractors and service providers to maintain statutory worker’s compensation insurance for all of their employees with a waiver of subrogation in favor of both County and City.

(c) County will require the consultants, contractors, and any subcontractors to provide all statutorily required payment and performance bonds at no additional cost to the Parties. On services for which performance bonds are not statutorily required, County will, in its sole discretion, determine whether or not to require any performance bond.

21.02 As local government entities, both County and City are subject to and comply with the applicable provisions of the Texas Tort Claims Act, as set out in the Texas Civil Practice and Remedies Code, Section 101.001, *et. seq.*, and the remedies authorized therein regarding claims or causes of action that may be asserted by third parties for accident, injury, or death. Both Parties hereby separately state and confirm that it maintains adequate insurance to respond to any claims by third-parties or by their respective employees for personal injuries or property damage. **Both Parties hereby waive pursuant to this Agreement any subrogation rights it may have or acquire as against each other arising in the course of or during the term of this Agreement.**

ARTICLE 22
AGREEMENT AUTHORIZATION; MULTIPLE COUNTERPARTS

22.01 This Agreement was approved by Order of the Bexar County Commissioners Court, dated as of _____, 2024, authorizing the Bexar County Judge to sign this Agreement below on behalf of County.

22.02 This Agreement was approved by the Fair Oaks Ranch City Council on _____, 2024, authorizing the City Manager for City to sign this Agreement below on behalf of City.

22.03 This Agreement may be executed in separate identical counterparts by the Parties hereto and each counterpart, when so executed and delivered, shall constitute an original instrument and all such separate identical counterparts shall constitute but one and the same instrument.

[The remainder of this page will intentionally remain blank.]

EXHIBIT A

EXECUTED AS OF THIS _____ DAY OF _____, 2024.

CITY OF FAIR OAKS RANCH

COUNTY OF BEXAR

By: _____
SCOTT HUIZENGA
City Manager
Date: _____, 2024

By: _____
PETER SAKAI
County Judge
Date: _____, 2024

APPROVED AS TO LEGAL FORM ONLY:

PAUL JACKSON
Assistant Criminal District Attorney–Civil Division

APPROVED AS TO FINANCIAL CONTENT ONLY:

LEO CALDERA, CIA CGAP
County Auditor

DAVID SMITH
County Manager

APPROVED AS TO GENERAL CONTENT ONLY:

ART REINHARDT, P.E., CFM
Interim Director of Public Works/County Engineer

EXHIBIT A

Exhibit A

Specifications for the Old Fredericksburg Rd. City Utility Relocation Project

{The specifications may be inspected at
<https://www.fairoaksranchtx.org/DocumentCenter/View/5511/Construction-Standard-Specifications-for-Water-and-Sanitary-Sewer-Construction> }

EXHIBIT A
EXHIBIT B

Proposed Schedule for City Utility Relocation Work

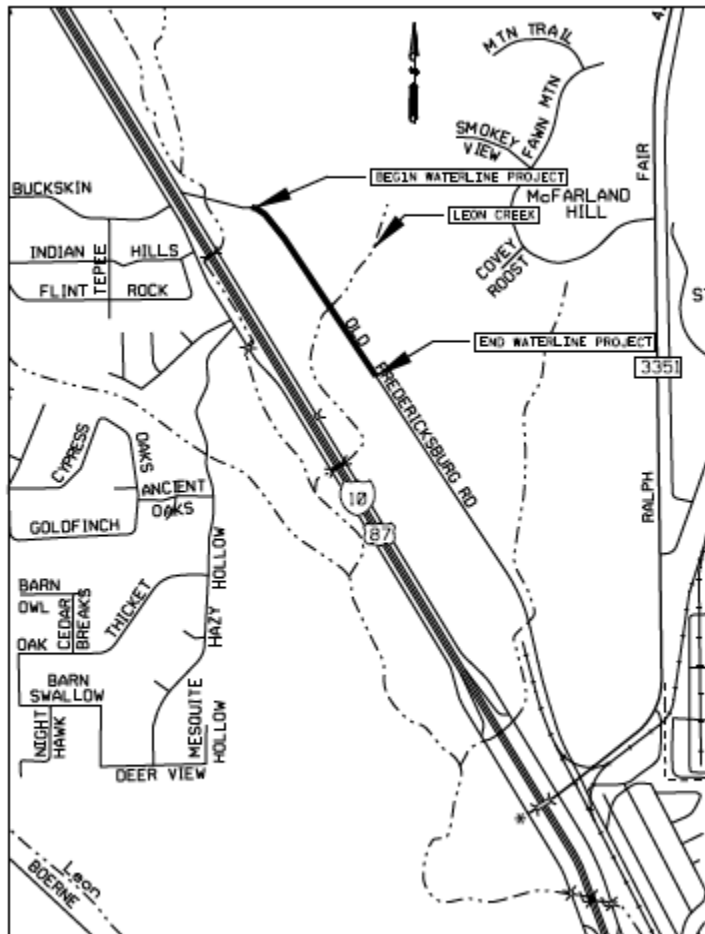
Based on the Traffic Control Plans and proposed construction schedule prepared by the County's Design Engineer, water relocation will be performed during the following phases/steps unless the Contractor proposes revisions during construction:

TCP Phase 1 Step 4: Culvert No.26 Construction

TCP Phase 4 Step 1: Construct Old Fredericksburg Road half section (East Bound Lanes)

TCP Phase 4 Step 2: Construct Old Fredericksburg Road half section (West Bound Lanes)

Exhibit C
General Depiction of the Project Area



NOT TO SCALE



**CITY COUNCIL CONSIDERATION ITEM
CITY OF FAIR OAKS RANCH, TEXAS**

AGENDA TOPIC: Consideration and possible action approving the first reading of an ordinance amending the budget for the fiscal year beginning October 1, 2024, and ending September 30, 2025

DATE: November 21, 2024

DEPARTMENT: Finance

PRESENTED BY: Summer Fleming, CGFO, Director of Finance

INTRODUCTION/BACKGROUND:

On November 21, 2024, the City Council will consider approving a resolution authorizing the execution of an Interlocal Agreement with Bexar County for the Old Fredericksburg water line replacement project. The FY 2024-25 budget includes \$270,400 for this project, and prior year appropriations in the amount of \$261,181 remain available, for a total remaining budget of \$531,581.

Total costs of the project including construction, 5% contingency, consulting and project management costs is estimated to be \$599,854. A budget amendment in the amount of \$68,273 is required to meet the estimated costs of the project.

POLICY ANALYSIS/BENEFIT(S) TO CITIZENS:

The Old Fredericksburg water line replacement project supports Priority 3.1 of the Strategic Action Plan to enhance and ensure continuity of reliable water resources in accordance with CCN obligations. Furthermore, joint bidding with Bexar County through the approved Interlocal Agreement improves coordination, sequencing of work, and reduces total project costs and impacts to nearby residents.

LONGTERM FINANCIAL & BUDGETARY IMPACT:

The proposed budget amendment will increase appropriations in the Water Capital Fund by \$68,273. The fund currently has available fund balance in the amount of \$315,423 from capital reserve fees that are unallocated to a project and available for appropriation.

LEGAL ANALYSIS:

Approved as to form.

RECOMMENDATION/PROPOSED MOTION:

I move to approve the first reading of an ordinance amending the budget for the fiscal year beginning October 1, 2024, and ending September 30, 2025.

AN ORDINANCE

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAIR OAKS RANCH, TEXAS, AMENDING THE BUDGET OF THE CITY OF FAIR OAKS RANCH, TEXAS FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2024, AND ENDING SEPTEMBER 30, 2025

WHEREAS, a Resolution was approved by City Council on November 21, 2024, authorizing execution of an Interlocal Agreement with Bexar County for the Old Fredericksburg Road water line replacement project; and

WHEREAS, the total cost of the project including construction, 5% contingency, consulting and project management costs is estimated at \$599,854, and

WHEREAS, the remaining budget balance of FY 2024-25 and prior appropriations totals \$531,581, and

WHEREAS, pursuant to Texas LGC 102.010 budget amendments shall be passed and approved by City Council, and

WHEREAS, the City Council finds the budget amendment as detailed in **Exhibit A** is warranted to fund the Old Fredericksburg water line replacement project.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAIR OAKS RANCH, TEXAS:

Section 1. The City Secretary is hereby directed to file this ordinance as an amendment to the original budget and the Director of Finance is hereby directed to amend the original budget with the amendments listed in the attached **Exhibit A**.

Section 2. That the recitals contained in the preamble hereto are hereby found to be true and such recitals are hereby made a part of this ordinance for all purposes and are adopted as a part of the judgment and findings of the Council.

Section 3. It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this ordinance be severable, and, if any phrase, clause, sentence, paragraph, or section of this ordinance shall be declared invalid by judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of this ordinance and the remainder of this ordinance shall be enforced as written.

Section 4. That it is officially found, determined, and declared that the meeting at which this ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this ordinance, was given, all as required by Chapter 551, as amended, Texas Government Code.

Section 5. The provisions of this ordinance shall be cumulative of all ordinances not repealed by this ordinance and ordinances governing or regulating the same subject matter as that covered herein.

Section 6. If any provision of this ordinance or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this ordinance and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City hereby declares that this ordinance would have been enacted without such invalid provision.

Section 7. All ordinances, or parts thereof, which are in conflict or inconsistent with any provision of this ordinance are hereby repealed to the extent of such conflict, and the provisions of this ordinance shall be and remain controlling as to the matters ordained herein.

Section 8. This ordinance shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

Section 9. This ordinance shall take effect immediately from and after its second reading, passage and any publication requirements as may be required by governing law.

PASSED and APPROVED on first reading by the City Council of the City of Fair Oaks Ranch, Texas, on this 21st day of November 2024.

PASSED, APPROVED, and ADOPTED on second and final reading by the City Council of the City of Fair Oaks Ranch, Texas, on reading this 5th day of December 2024.

Gregory C. Maxton, Mayor

ATTEST:

APPROVED AS TO FORM:

Christina Picioccio, TRMC
City Secretary

Denton Navarro Rodriguez Bernal Santee & Zech
P.C., City Attorney

EXHIBIT A
PROPOSED BUDGET AMENDMENTS
CITY OF FAIR OAKS RANCH
FISCAL YEAR 10/1/2024 - 9/30/2025

Proposed Increases to Budgeted Expenditures				
<u>Dep't</u>	<u>Acct #</u>	<u>Acct Name</u>	<u>Item</u>	<u>Amount</u>
Water Utility	22-504-109	Old Fredericksburg Road Waterline Replacement	Replacement of 2700 linear feet of eight-inch waterline	\$ 68,273
Total Proposed Expenditure Increases				\$ 68,273

Proposed Decreases to Budgeted Expenditures			
<u>Acct #</u>	<u>Acct Name</u>	<u>Reason for Budget Surplus</u>	<u>Amount</u>
Total Proposed Revenue Increases/Expenditure Decreases			\$ -

Transfers Required Between Funds			
<u>Acct #</u>	<u>Acct Name</u>	<u>Item</u>	<u>Amount</u>
Total Net Transfers between Funds			\$ -